PS LA 2005/7 - Substantiation of deductions claimed by individual taxpayers for work and car expenses incurred in the course of earning non-business and non-investment income.

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Refer to end of document for amendment history. Prior versions can be requested by emailing TCNLawPublishingandPolicy@ato.gov.au if required.

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Practice Statement Law Administration

PS LA 2005/7

This law administration 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. ATO personnel, including non ongoing staff and relevant contractors, must comply with this law administration practice statement, unless doing so creates unintended consequences or is considered incorrect. Where this occurs, ATO personnel must follow their business line's escalation process.

SUBJECT: **Substantiation of deductions claimed by individual taxpayers for work and car expenses incurred in the course of earning non-business and non-investment income.**

PURPOSE: **To provide guidance to ATO personnel as to what documentary or other evidence will normally be accepted as sufficient evidence to substantiate an individual taxpayer's claim for deductible work and car expenses (refer to work related deduction questions on an individual income tax return), where these expenses relate to non-business and non-investment income.**

TABLE OF CONTENTS **Paragraph**

SCOPE **1**

STATEMENT **9**

Flow Chart of ATO Approach 18

EXPLANATION **19**

Example 1 - use of a bank or credit card statement only 20

Example 2 – use of a bank or credit card statement combined with other evidence 22

Example 3 – use of electronic verification of purchase 27

Example 4 – evidence under various methods of payment 30

Example 5 – insufficient evidence 36

Example 6 – insufficient evidence 40

Copies of records, electronic records and electronic copies of records 43

Example 7 – receipts received in electronic format 44

Example 8 – copies of receipts 45

Example 9 – electronic copies of receipts 49

Attachment A - Types of evidence **Page**

SCOPE

1. This practice statement provides guidance on the documentary or other evidence ATO personnel should accept, in the absence of exceptional circumstances, as sufficient evidence to substantiate individuals' claims for certain deductible work and car expenses under Division 900 of Part 5-30 of the *Income Tax Assessment Act 1997* (Division 900). (Refer to work related deduction questions on an individual income tax return.) Division 900 deals with record keeping and other obligations. The practice statement applies to these types of expenses for which deductions are claimed in 2004-05 and later income year tax returns.

2. This practice statement does not apply to expenses incurred in the course of earning business or investment income, or to any expenses to which Division 900 does not apply. It deals only with evidentiary issues and does not attempt to address whether an expense is deductible or whether it has been incurred.

3. In normal circumstances, the general guidelines set out in this practice statement should be applied by ATO personnel. However, all cases that exhibit special or exceptional circumstances must be considered on their merits. These cases should be dealt with on a case by case basis having regard to their particular circumstances. Examples of exceptional circumstances include situations in which there is evidence to suggest that the documentation is fraudulent, or where the characteristics of the taxpayer's evidence differ substantially from the approaches set out in this practice statement.

4. The period of time for which records must be kept is not changed by this practice statement as the taxpayer must continue to retain all relevant records for the period specified under income tax and other taxation laws.

5. This practice statement has no impact upon the requirement to hold a tax invoice in order to be able to claim an input tax credit. It does not impact on Law Administration Practice Statement PS LA 2004/11 regarding the Commissioner's discretion to treat a particular document as a tax invoice or adjustment note; or the application of Goods and Services Tax Ruling GSTR 2000/26 *Corporate card statements – entitlement to an input tax credit without a tax invoice*.

6. This practice statement has no bearing on the rules for recording small expenses of up to $10 and to a maximum of $200 in total (section 900-125 of the *Income Tax Assessment Act 1997* (ITAA 1997)). Nor does it have any relevance to the situation where the Commissioner considers it unreasonable for a taxpayer to have obtained written evidence (section 900-130 of the ITAA 1997). A taxpayer would still be required to seek an opinion from the ATO prior to making a claim that depended upon the discretion provided by this section.

7. This practice statement does not alter the reasonable expense amounts for overtime meal allowances and travel allowances that are outlined in Taxation Determination TD 2004/19 and later year Taxation Determinations, or the Taxation Rulings in previous years covering the reasonable allowances amounts. Nor does it have any bearing on the rules applicable for reasonable laundry expenses as outlined in Taxation Ruling TR 98/5 or the rules for home office expenses covered in Law Administration Practice Statement PS LA 2001/6.

8. This practice statement applies to expenses relating to income reported on an Individual Non Business payment summary, such as salary and wages income. As it does not apply to non-individual, business or investment expenses, it does not extend to expenses relating to income (such as labour hire income, alienated personal services income and voluntary agreement income) reported on other payment summary types.

STATEMENT

9. Division 900 outlines the substantiation requirements that apply specifically in respect of work expenses, and car expenses calculated under either the one-third of actual expenses method or the log book method. For other expenses incurred by individuals, a taxpayer must be able to show how they reasonably arrived at a claim, although the legislation does not specify the form that evidence must take.

10. Subsections 900-115(2) and 900-120(2) of Subdivision 900-E of the ITAA 1997 require a taxpayer to obtain a document from the supplier of the relevant goods or services, except in special circumstances referred to elsewhere in Subdivision 900-E of the ITAA 1997. These subsections specify that the document must set out:

    (a) the name or business name of the supplier

    (b) the amount of the expense, expressed in the currency in which it was incurred - or the cost of the asset

    (c) the nature of the goods or services - or asset,

    (d) the day the expense was incurred - or asset was acquired, and

    (e) the day it is made out.

    Where the details of (c) and (d) are missing from the document, subsection 900-115(3) operates to allow the taxpayer to write the missing details regarding the nature of the goods or services on the document before they lodge their tax return. It also provides for the taxpayer to use alternate reasonable evidence, such as a bank statement, to show when the amount was paid. Separately, relief may be available under Subdivision 900-H of the ITAA 1997 where the requirements of Subdivision 900-E of the ITAA 1997 have not been met.

11. Section 900-195 of Subdivision 900-H of the ITAA 1997 enables the Commissioner to exercise a discretion to allow a deduction where the above requirements have not been met, provided the taxpayer is able to satisfy the Commissioner that they have incurred the expense and are entitled to deduct the amount. This practice statement illustrates, by way of examples contained in the explanation, the nature and quality of evidence that the ATO will accept as sufficient evidence to substantiate the amount claimed in normal circumstances only. It does not deal with the issues of whether or not an outlay has been incurred by the claimant or is deductible.

12. Where an individual's case is not covered by these guidelines, nothing in this practice statement affects their right to request the Commissioner to exercise the aforementioned discretion in their favour based on the merits of their case. Taxation Ruling TR 97/24 explains in further detail, the application of the discretion on a case by case basis.

13. The ATO may elect to verify at source any document tendered by a taxpayer, even where that document contains the details required by either the legislation or this practice statement. For example, this may occur in an audit where, in the course of that audit, the ATO seeks to verify the authenticity and accuracy of a document.

14. This practice statement reduces or minimises the need to obtain additional records, where those already obtained include sufficient detail to support the correctness of the claim. Types of evidence to which the principles of this practice statement apply include documents such as those outlined in the Attachment A to this practice statement.

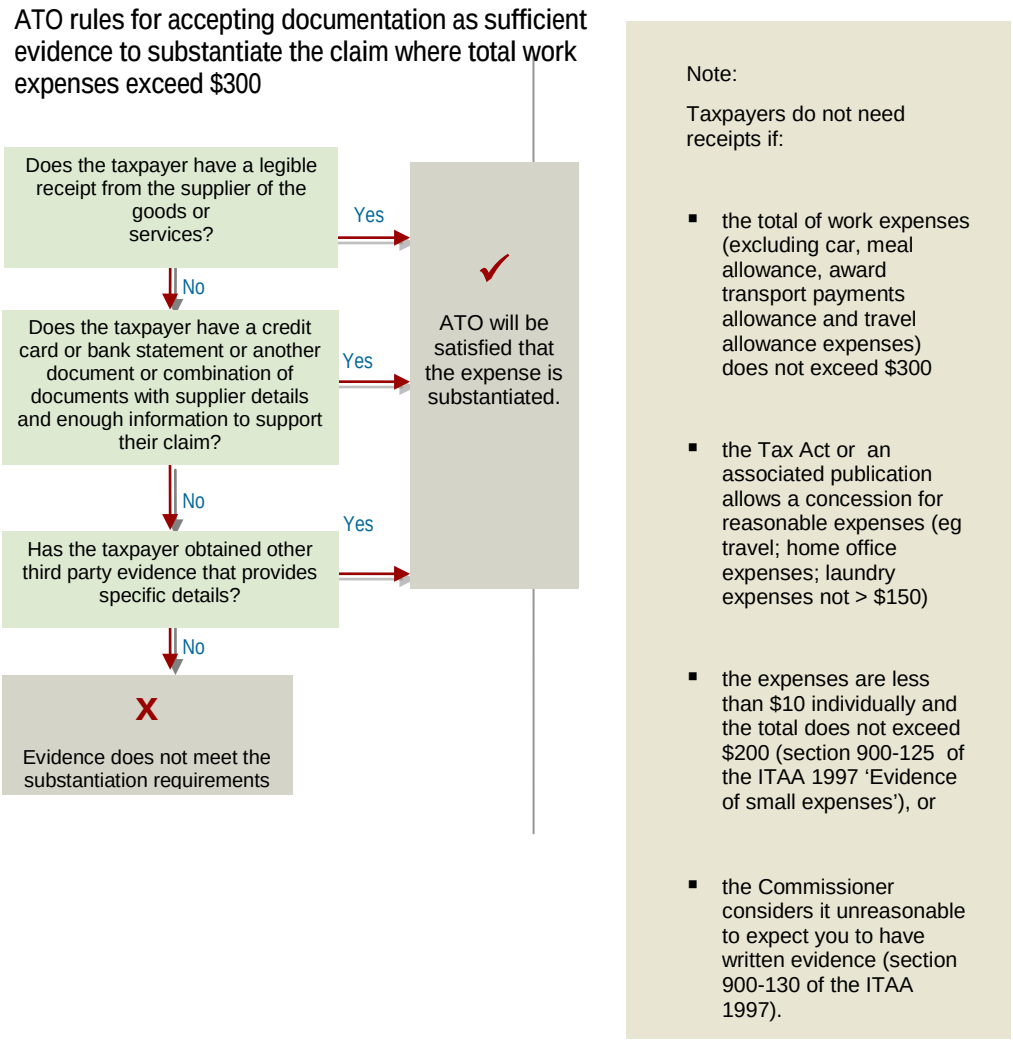
15. As a consequence of technological advancement, many transactions are now entered into and paid for in an electronic environment. For example, taxpayers may purchase goods and services on the internet or over the telephone and routinely pay for goods using Billpay (BPAY), internet banking, an Electronic Funds Transfer Point of Sale (EFTPOS) terminal and other electronic means.

16. In some circumstances, such as where BPAY or internet banking is used to pay for purchases, while there may be an invoice issued by the supplier for the purchase of goods or services, suppliers may not issue a receipt containing all the information required by the substantiation legislation. However, taxpayers in this situation and taxpayers who did not obtain or retain a receipt may have another document or combination of documents with sufficient information to support the correctness of their claim.

17. Generally, documents or combinations of documents containing the particulars set out in Subdivision 900-E of the ITAA 1997 should be accepted as written evidence, whether issued by the supplier of the goods or services or another third party. If a combination of documents is used (as opposed to a single document), these documents do not need to contain the date they were created. However, they still need to contain the date the expense was incurred.

Flow Chart of ATO Approach

18. The following diagram illustrates the ATO approach. It is supported with examples, which follow in the Explanation section of this practice statement.



EXPLANATION

19. This practice statement clarifies the application of the Commissioner's discretion under section 900-195 of the ITAA 1997. It assists ATO personnel when dealing with taxpayers who do not meet the specific substantiation requirements but have other evidence that demonstrates compliance with the law.

Example 1 - use of a bank or credit card statement only

20. Daniel, who is employed by a large firm of solicitors, receives a bill for his annual professional subscription fees, which he pays using his credit card. His credit card statement bears the date of the transaction, the name of the professional association and the amount paid. Before he lodges his income tax return, Daniel makes a note on his credit card statement to the effect that the transaction related to his professional subscription fees.

21. The ATO will accept the credit card statement as sufficient evidence to substantiate Daniel's claim for a deduction for the fees.

Example 2 – use of a bank or credit card statement combined with other evidence

22. Kylie, having just started her first full time job as a clerical worker, purchased a pen for use at work costing $50 from a jeweller's shop. She also bought a pair of earrings for $100 and paid for both items on her credit card. Having never completed a tax return before, she was not aware that the pen would be a deductible expense. She did not request or receive a receipt.

23. When it was time to prepare her return, Kylie realised that she could claim her pen as a work expense. She had also incurred union fees of $478, which were recorded on her payment summary.

24. Kylie checked her credit card statement and found that it showed an amount of $150 and the name of the jeweller's shop. Initially, she decided it would be safest not to claim for the pen because she had no specific receipt and she was not sure of the exact amount. However, she had kept the box the pen had been packaged in, and upon checking the box for further information noted the $50 price sticker on the outside. Before lodging her income tax return, Kylie made a note on the credit card statement detailing the two items and their respective prices and kept the pen packaging along with her bank statement.

25. By keeping the pen packaging and the credit card statement including her notation, Kylie has ensured she has sufficient information to substantiate her expense. The ATO will accept the combination of the pen packaging and the credit card statement as sufficient evidence to substantiate her claim.

26. Had Kylie not kept the box that her pen came in with the price sticker on it, but was able to obtain from the jewellery store a written breakdown of how much she spent on each of the items, she would also have been able to make a note on her credit card statement detailing the two items and their respective prices, and would have had sufficient evidence to substantiate her claim. The ATO would accept the combination of the credit card statement containing Kylie's notation and the written price breakdown from the jewellery store as sufficient substantiation.

Example 3 – use of electronic verification of purchase

27. Minh, a computer programmer, purchased some floppy discs for work over the internet. When he ordered the floppy discs, he received an automatic response via email that quoted an order reference number, the nature of the goods, and the amount due to be paid. He paid by sending a money order to the supplier and kept the stub of the money order, which included the supplier name and the amount paid.

28. Minh stored the email in an electronic folder labelled 'Tax', which he also backed up on disc. The ATO will accept the combination of the automatic email response and money order stub as sufficient evidence to substantiate Minh's expense.

29. Note: The ATO prefers that where records are stored electronically, a back up copy of the records is made to ensure the ease of accessibility of the evidence in the event that the original becomes inaccessible or unreadable (for example, where a compact disc, floppy disc or hard drive is corrupted). TR 97/24 addresses relief from the substantiation provisions where documents are lost or destroyed.

Example 4 – evidence under various methods of payment

30. Louise is an apprentice plumber employed by a small plumbing business. As part of her employment she needs to provide her own tools.

31. Louise purchased $250 worth of tools from her local hardware store. As she is a regular customer, the hardware store issues her with a tax invoice requesting payment within 30 days, which she pays at the end of the month by way of an electronic transfer from her bank account. The ATO will accept the combination of the tax invoice and bank statement showing the electronic transfer as sufficient evidence to substantiate the claim for the purchases from the local hardware store.

32. Louise also purchased a spanner from a different hardware store as she needed to replace one that was damaged while completing a job for a client. She paid for the spanner using EFTPOS, withdrew some cash and kept her receipt. The receipt contained the relevant details required by the substantiation legislation and outlined an amount of $129 for the spanner and $100 for the cash withdrawal. The receipt is sufficient evidence to substantiate Louise's expense as it meets the requirements of the substantiation legislation.

33. For the majority of EFTPOS transactions, a bank statement alone would not be sufficient evidence to substantiate a claim. This is because bank statements do not generally show a cash withdrawal separately from the amounts associated with the item(s) purchased in the transaction, nor do they usually show the nature of the items purchased.

34. In situations where the taxpayer did not obtain or retain the receipt for an EFTPOS transaction, the taxpayer will generally need further evidence showing the amount of the item purchased. Had Louise not kept the receipt, the ATO would accept other evidence that demonstrates the amount spent on the spanner - for example, the combination of the bank statement and the written price breakdown from the hardware store, or the combination of the bank statement and the tool packaging marked with the price.

35. Louise also needs to use her mobile phone for business calls and pays the mobile phone bill over the phone, using BPAY. As Louise cannot claim a deduction for the private use component of her phone, she maintains a log of calls made for business purposes including the date, time of call and phone number called. She uses her itemised phone bill to determine the cost of her business related calls. She notes her BPAY reference number on the bill. The ATO will accept the combination of the BPAY reference number, log of phone calls and itemised phone bill as sufficient evidence to substantiate the expense.

Example 5 – insufficient evidence

36. Tom, an apprentice mechanic employed by a small auto-repair business requires numerous text books for the TAFE component of his apprenticeship. He purchases these for $270 cash from an ex-student at the TAFE he attends. He does not ask for a receipt and when it is time to prepare his tax return does not recall the name or contact details of the person from whom he purchased them. The text books have prices written in pencil on the inside cover. Tom has other work expenses in excess of $300.

37. Tom has no receipt and no method through which to obtain a receipt or other evidence to support his claim for the text books. The notation on the inside cover of the text book alone would not be sufficient evidence to substantiate Tom's expense within the guidelines of this practice statement.

38. Note: This practice statement has no impact on TR 97/24, which addresses the Commissioner's discretion to grant relief from the substantiation requirements where it is unreasonable to expect written evidence to be obtained.

39. Note: this practice statement has no impact on the requirement – under section 82A of the *Income Tax Assessment Act 1936*, as outlined in Taxation Ruling TR 98/9 - to reduce certain work-related self-education expenses by $250.

Example 6 – insufficient evidence

40. Jane, a radio engineer employed by a local radio station, purchases some tools for work for $200 from a private individual who advertised them for sale in the local paper. Jane pays cash for the tools and does not obtain a receipt but keeps the advertisement. The advertisement includes a description of the tools, the price advertised and a contact phone number for the seller. At the end of the financial year Jane decides to call the seller to obtain a receipt for the tools but finds that the number has since been disconnected. Jane has other work related expenses in excess of $300.

41. Jane has no receipt and no method through which to obtain a receipt or other evidence to support her claim for the tools. The advertisement alone would not be accepted as sufficient evidence to substantiate Jane's expense within the guidelines of this practice statement.

42. Note: This practice statement has no impact on TR 97/24, which addresses the Commissioner's discretion to grant relief from the substantiation requirements where it is unreasonable to expect written evidence to be obtained.

Copies of records, electronic records and electronic copies of records

43. Records made and stored in a computer are recognised as documents for the purposes of Commonwealth legislation. Section 25 of the *Acts Interpretation Act 1901* was amended to extend the ordinary meaning of the word record to include information stored by means of a computer. Taxpayers may also, for various reasons, choose to make copies of records, whether electronic or otherwise. Examples of how individuals may choose to store records in an electronic environment or use electronic or hardcopy reproductions of original records are given below.

Example 7 – receipts received in electronic format

44. Amanda, a computer programmer, retains her internet-generated receipt for work expenses, including supplier details and purchase amount, on her computer. If necessary, the receipt could be printed and may be able to be verified as being a genuine receipt by the ATO through communications with the issuer of the receipt. The ATO will accept the electronic receipt as sufficient evidence to substantiate Amanda's expense as it meets the requirements of the substantiation legislation.

Example 8 – copies of receipts

45. Marco, a real estate agent employed by a large real estate agency, uses his car for work purposes and pays for fuel, oil, repairs and maintenance at the local garage. He pays by credit card, EFTPOS, or occasionally cash. The receipts are printed on thermal paper, which fades over time.

46. Marco claims his car expenses via the log book method, and so does not need to keep the receipts for fuel and oil (he relies on his odometer records). However, he needs to claim separately for the repairs and maintenance. Marco photocopies the thermal paper receipts to protect the information contained on the receipts and ensure that he is able to continue to provide a copy of the receipts long after the original receipts fade.

47. If the receipts contain sufficient information to support the correctness of the claim, they would be acceptable as sufficient evidence to substantiate Marco's expense, whether they are in the form of original receipts or copies of the original receipts. This is provided that the copies are a true and clear reproduction of the originals.

48. Note: TR 97/24 addresses relief from the substantiation provisions where documents are lost or destroyed.

Example 9 – electronic copies of receipts

49. Jonathan often moves from job to job, frequently relocating to different cities in order to take up employment opportunities. He prefers not to keep large numbers of paper receipts. Instead he scans his receipts and stores them on his computer. He keeps a backup burned to compact disc.

50. If the original receipts contained the required information, they would be sufficient to substantiate the relevant expenses. Electronic copies that are a true and clear reproduction of the originals would be acceptable to the ATO. The receipts may be able to be verified as being genuine receipts by the ATO through communications with the issuer of the receipts.

Types of evidence

Types of evidence to which the principles of this practice statement apply include documents such as:

- bank statements
- credit card statements
- internet-generated bank or credit card statements
- BPAY reference numbers, combined with bank statements
- BPAY reference numbers, combined with tax invoices
- internet generated receipts
- email receipts
- paper copies of receipts
- electronic receipts
- electronic copies of receipts

These types of evidence or combinations of these types of evidence will be taken to be appropriate evidence of an expense, where they contain sufficient information and the principles outlined in this Practice statement are adhered to.

Amendment history

Date of amendment	Part	Comment
7 August 2014	Contact details	Updated.
6 December 2011	Contact details	Updated.
20 July 2011	Contact details	Updated.
16 September 2008	Contact details	Updated.
7 April 2008	Contact details	Updated.

Subject references	Work expenses: car expenses; travel expenses; uniform expenses, clothing expenses, laundry and dry cleaning expenses; work related self-education expenses; and other work expenses. Substantiation. Deductions. Electronic records. Receipts. Records. Record Keeping.
Legislative references	ITAA 1997 Div 28 ITAA 1997 Div 900 ITAA 1936 82A Electronic Transactions Act 1999 Acts Interpretation Act 1901
Related public rulings	TR 97/24 TR 98/5 TR 98/9 TR 2004/6 GSTR 2000/26 TD 2004/19
Related practice statements	PS LA 2001/6 Home Office Expenses; diaries of use and calculation of home office expenses PS LA 2004/11 The Commissioner's discretions to treat a particular document as a tax invoice or adjustment note
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