TR 2004/6 - Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses

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Taxation Ruling

Income tax: substantiation exception for reasonable travel and overtime meal allowance expenses

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Preamble

*The number, subject heading, **What this Ruling is about** (including **Class of person/arrangement** section), **Date of effect**, **Ruling** and **Definition** parts of this document are a 'public ruling' for the purposes of **Part IVAAA of the Taxation Administration Act 1953** and are legally binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a 'public ruling' and how it is binding on the Commissioner.*

[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

What this Ruling is about

1. Some of the key terms used in this Ruling (as indicated by the use of ***bold italic*** text) are defined in paragraphs 86 to 92.

Class of person/arrangement

2. This ruling applies to individuals who incur work-related deductions for travel expenses or overtime meal expenses where these expenses are covered by an allowance paid by the person's employer. An employer includes a person who makes a withholding payment of a kind set out in subsection 900-12(3) of the *Income Tax Assessment Act 1997* (ITAA 1997).

Substantiation of travel expenses and overtime meal expenses

3. Subdivision 900-B of the ITAA 1997 sets out substantiation rules for work-related deductions, and provides for exceptions in the case of some types of expenses.

4. This Ruling explains the way in which the substantiation exception operates for work expenses of ***employees*** that are either reasonable travel allowance expenses or reasonable overtime meal allowance expenses.

5. In addition to this Ruling, for each income year the Commissioner publishes amounts that are considered to be reasonable for the purposes of this substantiation exception (***reasonable amounts***). It is the Commissioner's practice to publish these reasonable amounts in a Taxation Determination issued before the start of each income year.[1]

Date of effect

6. This ruling applies to the 2004-05 income year and subsequent income years. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20.

Note: The Addendum to this Ruling that issued on 21 June 2006 applies on and from 1 July 2006.

Previous Rulings

7. This ruling supersedes earlier rulings on Reasonable Allowances Amounts that have been issued in previous years.

Ruling

Claiming and substantiating travel and overtime meal expenses

8. Under Subdivision 900-B of the ITAA 1997, a deduction is not allowable for a work expense, including a meal allowance expense or travel allowance expense, **unless** the expense qualifies as a deduction under a provision of the Act and ***written evidence*** of the expense has been obtained and retained by the ***employee*** taxpayer.

9. Subdivision 900-B also provides that the substantiation requirement to obtain ***written evidence*** does not apply to claims by ***employee*** taxpayers for expenses covered by:

- an overtime meal allowance paid under an industrial instrument; or
- a domestic travel allowance or overseas travel allowance, whether or not the allowance is paid under an industrial instrument,

if the amount of the claim for losses or outgoings incurred does not exceed the reasonable amounts.

10. The exceptions from substantiation for claims for these expenses apply to ***employees***, which includes individuals to whom

[1] For the 2004-2005 income year referred to Taxation Determination TD 2004/19.

subsection 900-12(1) of the ITAA 1997 applies. This includes company directors, office holders and religious practitioners.

11. An expense must be actually incurred before a claim can be made. A taxpayer cannot automatically claim a deduction just because they receive an allowance. If an expense is incurred partly for work purposes and partly for private purposes, only the work-related portion is deductible.

12. Unless the following exception applies, all allowances must be shown as assessable income in the ***employee's*** tax return. However where:

- the allowance is not shown on the employee's payment summary;
- the allowance received is a ***bona fide overtime meal allowance*** or a ***bona fide travel allowance***;
- the allowance received does not exceed the reasonable amount; and
- the allowance has been fully expended on deductible expenses,

the allowance received is not required to be shown as assessable income in the ***employee's*** tax return. Where the allowance is not required to be shown as assessable income in the ***employee's*** tax return, and is not shown, a deduction for the expense cannot be claimed in the tax return. (See Pay As You Go (PAYG) Bulletin No. 1 – Taxing of allowances for the 2000/01 and future years).

Substantiation exception

13. The objective of the substantiation exception for travel and overtime meal allowance expenses provided for in Subdivision 900-B of the ITAA 1997 is to relieve taxpayers covered by the exception from the requirement to substantiate claims for deductible expenses by using detailed calculations, records or receipts. If a claim for expenses that are covered by a travel allowance or overtime meal allowance qualifies for exception from substantiation, it is not necessary to keep ***written evidence*** as would otherwise be required under Subdivision 900-E of the ITAA 1997.

14. A taxpayer can choose not to use the exception from substantiation. Each taxpayer can decide between maintaining fewer records and limiting a claim to the reasonable amount, which in some circumstances may be lower than the amount actually incurred, or keeping ***written evidence*** and claiming the full amount of deductible expenses incurred, which may be higher than the reasonable amount.

15. If a taxpayer relies on the exception from substantiation, they may still be required to show the basis for determining the amount of their claim, that the expense was actually incurred, and that it was for work-related purposes. What counts as evidence for a claim subject

to the substantiation exception will vary according to individual circumstances and the nature of the expense.

Common situations

16. Where a taxpayer receives a ***bona fide travel allowance*** or a ***bona fide overtime meal allowance*** and incurs deductible expenses in relation to it:

- Where the deduction claimed is more than the reasonable amount, the whole claim must be substantiated with ***written evidence***, not just the excess over the reasonable amount.
- Where the allowance received is not shown on the employee's payment summary and is not greater than the reasonable amount and it is fully expended on deductible expenses, the allowance received is not required to be shown as assessable income in the ***employee's*** tax return. Where it is not shown, a deduction for the expense cannot be claimed in the tax return – refer to paragraph 12.
- Where the allowance paid by the employer is greater than the reasonable amount the taxpayer may still use the exception from substantiation if the claim for deduction is not greater than the reasonable amount. In that case the allowance must be shown as assessable income and ***written evidence*** is not required to support the claim.
- Where the deductible expense is less than the allowance received, the taxpayer must show the allowance as assessable income in the tax return, and claim only the amount of the deductible expenses incurred.

Overtime meal allowance expenses

17. For overtime meal expenses to be considered under the exception from substantiation, the overtime meal allowance must be a '***bona fide overtime meal allowance***' paid or payable under a law of the Commonwealth or of a State or Territory, or an award, order, determination or industrial agreement in force under such a law (section 900-60 of the ITAA 1997).

Travel allowance expenses

18. For domestic or overseas travel allowance expenses to be considered for exception from substantiation, the ***employee*** must be paid a ***bona fide travel allowance***. The allowance must be paid to cover work-related travel expenses incurred for travel away from the ***employee's*** ordinary residence, undertaken in the course of

performing duties as an ***employee*** (subsection 900-30(3) of the ITAA 1997) and which involves ***sleep away from home***. The work-related travel expenses must be for accommodation, or food or drink, or expenses incidental to the travel.

19. A travel allowance that is not paid or payable to cover specific work-related travel is not considered a travel allowance for the purposes of the exception from substantiation.

20. The exception does not apply to accommodation expenses for overseas travel.

Reasonable domestic and overseas travel allowance expenses

21. A domestic or overseas travel allowance expense claim is considered to be reasonable if the amount of the claim covered by the allowance received by an ***employee***, does not exceed the relevant reasonable amounts.

22. Subsection 900-50(2) of the ITAA 1997 requires that, in determining what is reasonable, the Commissioner must consider what it would be reasonable for the ***employee*** to incur for the travel.

23. It is the Commissioner's practice to publish reasonable amounts for accommodation at daily rates, meals (showing breakfast, lunch and dinner), and deductible expenses incidental to travel. These amounts are set out for various travel destinations and ***employee*** categories as considered appropriate by the Commissioner.

24. The amounts set for domestic accommodation expenses represent amounts that could reasonably be expected to be incurred at commercial establishments such as hotels, motels and serviced apartments. The relevant amounts for accommodation are only considered reasonable amounts to claim if the expense is incurred for accommodation at these types of establishments, generally at daily rates. If alternative accommodation is used, these rates do not apply.

25. In determining the reasonable amount to claim for meals, reference should be made to the period of the travel. That is, what meals (breakfast, lunch and/or dinner) would it be reasonable for that ***employee*** to incur during the period from the commencement to the end of the travel that are covered by the allowance, given the individual employment circumstances of the ***employee***. The reasonable amount for incidental expenses applies in full to each day of travel, including the first and last day.

Office holders covered by the Remuneration Tribunal

26. Daily domestic travel allowance expense claims made by office holders covered by the Remuneration Tribunal are considered to be reasonable if they do not exceed the rate of allowances set by the Remuneration Tribunal for that office holder (see also paragraphs 66 to 69).

27. The travel allowances paid to Federal Members of Parliament and Federal Parliamentary Secretaries, under the arrangements that commenced on 14 April 1998, are considered reasonable amounts for the recipients of those allowances to claim for the purposes of the exception from substantiation in section 900-50 of the ITAA 1997. This includes the Capital City and Canberra travel allowances rates for domestic travel, having regard to the circumstances under which those allowances are paid (see paragraphs 70 and 71).

Part-day travel allowance amounts

28. Australian Public Service (APS) ***employees*** receive an allowance for travel that necessitates their being absent from their normal workplace and away from their region, on official business, for not less than 10 hours, but which does not require an overnight absence (Part-day travel allowance).

29. The APS Part-day travel allowance is not paid for travel away from the taxpayer's ordinary residence, that is the travel does not involve ***sleeping away from home***. This allowance is, therefore, not a travel allowance for the purposes of the exception from substantiation in section 900-50 of the ITAA 1997. Part-day travel allowances received by members of the APS, and similar allowances received by other taxpayers, should be shown as assessable income in the ***employees'*** tax returns. Any claim for work-related expenses incurred for travel that does not involve ***sleeping away from home*** is subject to the normal substantiation requirements.

Reasonable overseas travel allowance expense claims

30. The exception from substantiation for work-related expenses covered by an overseas travel allowance applies only to expenses for food, drink and incidentals. The exception does not apply to accommodation costs. Where an overseas travel allowance is received, the amount claimed for work-related expenses is considered reasonable if it does not exceed the relevant food or drink or incidentals component that is covered by an overseas travel allowance determined by the Commissioner.

Explanation

Object of this ruling

31. The object of this Ruling is to provide information for ***employees*** to decide whether they can rely on the exception from substantiation for the keeping of written evidence for travel and overtime meal allowance expenses. They will need to consider the type of allowance they receive and what the allowance is expected to cover. If they are eligible to use the exception from substantiation they can decide between maintaining fewer records and claiming up to the reasonable amount, for those deductible expenses actually incurred that are covered by the allowance, or keeping written evidence to substantiate their claim.

32. The deductibility of losses and outgoings incurred is not discussed in detail in this Ruling. However, it remains a requirement of the law that, before the exception from substantiation can apply in respect to claims for the losses or outgoings incurred, the losses or outgoings must be deductible under some provision of the ITAA 1997.

Reasonable expenses determined only for tax purposes

33. In setting the reasonable amount for the purposes of this Ruling the Commissioner does **not** determine the amount of allowance an ***employee*** should receive or an employer should pay their employees. The amount of an allowance is a matter to be determined between the payer and the payee. The Commissioner determines the reasonable amount of travel and meal allowance expenses only for the purposes of the tax law, that is the amount that will be accepted for exception from the requirement to obtain and keep written evidence for substantiation purposes. It is not provided for the purpose of being used for employment or industrial relations purposes in setting the amount of allowances paid. The Commissioner is not entitled under the tax law to have any specific regard to the fairness or appropriateness of the allowance paid as part of any remuneration arrangement.

Withholding obligations of employers

34. This Ruling also has application to employers for determining whether or not amounts required to be withheld from payments of overtime meal allowances or travel allowances, can be varied where special circumstances exist. That is, where it is reasonable to expect that:

- expenses up to at least the amount of the allowance will be incurred by the ***employee***;
- the expenses will be incurred for the purpose for which the allowance is paid;

- the expenses will be tax deductible to the ***employee***; **and**
- the amount and nature of the allowance is shown separately in the accounting records of the employer.

(see Pay As You Go (PAYG) Bulletin No. 1 – Taxing of allowances for the 2000/01 and future years)

Requirement to substantiate expenses

35. Under Subdivision 900-B of the ITAA 1997, a deduction is not allowable for a work expense, including a meal allowance expense or a travel allowance expense, **unless** the expense qualifies as a deduction under a provision of the ITAA 1997 and ***written evidence*** of the expense has been obtained and retained by the ***employee*** taxpayer.

36. Broadly speaking, ***written evidence*** is a receipt, invoice or similar document that sets out the particulars outlined in Subdivision 900-E of the ITAA 1997. Where overseas or domestic travel involves being away for 6 or more nights in a row, a ***travel record*** must also be kept in accordance with Subdivision 900-F of the ITAA 1997. The Commissioner considers that a travel diary is an appropriate ***travel record*** for this purpose.

Substantiation exception available

37. There are exceptions where ***written evidence*** or a ***travel record*** is not required. Exceptions apply to claims for expenses which are considered by the Commissioner to be reasonable and which are covered by a travel allowance or by an overtime meal allowance. It is the amount claimed as a deduction that must be reasonable, rather than the amount of the allowance.

38. If the travel allowance expense or overtime meal allowance expense claimed qualifies for exception from substantiation, it is not necessary to keep ***written evidence*** as would otherwise be required under Subdivision 900-E of the ITAA 1997. The objective of the exception is to relieve taxpayers, who are covered by the exception from substantiation, from the requirement to determine claims relying on detailed calculations based on records or receipts.

39. However, a taxpayer may still be required to show the basis for determining the amount of their claim and that the expense was actually incurred for work-related purposes. What counts as evidence for a claim subject to the substantiation exception will vary according to individual circumstances and the nature of the expense. If necessary, it is acceptable for a reasonable estimate to be the basis for claims having regard to the taxpayer's occupation and the types of expenses that would be expected to be incurred. This is a significantly lesser requirement than the need to keep ***written evidence***.

40. A taxpayer can choose not to use the exception from substantiation. Each taxpayer can decide between maintaining fewer records and claiming the reasonable amount, which in some circumstances may be lower than the amount actually incurred, or keeping ***written evidence*** and claiming the full amount of deductible expenses incurred, which may be higher than the reasonable amount.

Claiming a deduction

41. The receipt of a travel allowance or an overtime meal allowance does not automatically entitle an ***employee*** to a deduction, nor does the amount of an allowance received determine if the claim is reasonable. Only the actual amount incurred on work-related travel expenses or overtime meal allowance expenses can be claimed as a deduction.

42. Where there is an exception from substantiation, it remains a requirement of the law that the relevant expenditure covered by the overtime meal allowance or travel allowance qualifies as a deduction under another provision of the ITAA 1997 (subsection 900-15(1) of the ITAA 1997). For example, an overtime meal allowance or travel allowance expense must satisfy the requirements of section 8-1 of the ITAA 1997 before a claim for a deduction can be made. As incidental expenses are work expenses, any amount claimed as an incidental expense must be deductible under the ITAA 1997.

43. In the case of a domestic or overseas travel allowance, deductibility can generally be shown by reference to the employer's arrangements for payment of allowances. The circumstances under which the employer pays the allowance should be considered, for example is the allowance paid only in circumstances involving deductible travel? If the allowance is paid in circumstances involving deductible and non-deductible travel, appropriate adjustments should be made.

Setting reasonable allowance amounts

44. In setting the reasonable allowance amounts, the Commissioner takes into account the costs of accommodation (domestic travel only), food and drink in a range of regions and establishments, based on surveys of actual costs produced by a number of organisations including Department of Employment and Workplace Relations (DEWR). The domestic accommodation rates are based on the results of surveys conducted by DEWR which takes into account the costs that are likely to be incurred at a range of commercial establishments at rates generally available to most business travellers.

45. The Commissioner also considers salary levels, the circumstances for payment of the relevant allowance, the more common destinations travelled to and occupational aspects.

46. The reasonable amounts reflect accommodation expenses incurred in commercial establishments for short term daily accommodation and the relevant food and drink expenses incurred during the period of that travel. The reasonable amount for incidentals applies to deductible incidental travel expenses incurred for each day the ***employee*** travels if those expenses are covered by the travel allowance.

47. In determining the overtime meal allowance amount, consideration is given to surveys conducted in a range of areas and establishments to ascertain the costs of food and drink. These surveys take into account a variety of food and drink from different establishments and regions where it would be reasonable to purchase food and drink during a meal break while working overtime.

48. **Any variation to the Commissioner's reasonable amount would be considered only in unique or unusual circumstances where there are strong grounds for departure from the reasonable amount published.** We would need to be satisfied that the Commissioner's reasonable amount is unreasonable in the particular circumstances of the ***employee***. Some unique circumstances may be when a taxpayer travels for work to an area where there has been a natural disaster or where, at the time of the travel, a significant event such as the Olympic Games or World Expo is being held. In these circumstances, there may be grounds for departure from the Commissioner's published reasonable amounts for those journeys.

49. The fact that a travel allowance or overtime meal allowance amount has been approved by an Industrial Relations Commission or indexed in accordance with the CPI movement is not, on its own, considered sufficient basis for an application to vary the reasonable amounts shown in this Ruling.

Overtime meal allowance expenses

50. For overtime meal expenses to be considered under the exception from substantiation, the overtime meal allowance must be paid to enable the purchase of food or drink in connection with a specific occasion when overtime is worked. The expense must also be covered by that allowance. The overtime meal allowance must be paid or payable under a law of the Commonwealth or of a State or Territory, or an award, order, determination or industrial agreement in force under such a law: section 900-60 of the ITAA 1997.

51. An amount for overtime meals that has been folded-in as part of normal salary or wages, for example under a workplace agreement, is not considered to be an overtime meal allowance.

52. The following table is a summary of the substantiation requirements for claims for overtime meal allowance expenses:

	Is written evidence needed?
An eligible[1] ***bona fide overtime meal allowance*** is paid and the claim for expenses incurred **does not exceed** the reasonable amount set per meal	No
An eligible[1] ***bona fide overtime meal allowance*** is paid and the claim for expenses incurred **exceeds** the reasonable amount set per meal	Yes, for whole claim

[1] To be eligible, the allowance must be paid or payable under a law of the Commonwealth or of a State or Territory, or an award, order, determination or industrial agreement in force under such a law.

Travel allowance expenses

Must sleep away from home

53. For domestic or overseas travel allowance expenses to be considered for exception from substantiation, the relevant allowance must qualify as a travel allowance. The allowance must be paid to cover work-related travel expenses incurred or to be incurred for travel away from the ***employee's*** ordinary residence, undertaken in the course of performing duties as an ***employee*** (subsection 900-30(3) of the ITAA 1997). The Commissioner takes the view that the term 'travel away from the ***employee's*** ordinary residence' means that the ***employee*** must sleep away from their home.

Must cover cost of accommodation, food or drink, or incidentals

54. The travel allowance must be paid to cover the cost of accommodation (domestic travel only) or food or drink or expenses incidental to the travel (paragraph 900-30(3)(b) of the ITAA 1997).

Example 1

55. *Joe works for a national telecommunications company. Joe's employer provides him with an accommodation allowance to cover the costs of accommodation when Joe stays away from home. Joe does not receive an allowance for meals or incidental expenses. Joe may rely upon the exception from substantiation only in respect of the cost of the accommodation. He must have* ***written evidence*** *to support any deductions he claims for meals and any incidental costs.*

Must cover specific journeys

56. The travel allowance must be paid for specific journeys undertaken or to be undertaken for work-related travel. A travel allowance that is not paid to cover relevant expenses for specific journeys undertaken or to be undertaken for work-related travel, is not a travel allowance for the purposes of the exception from substantiation.

57. Examples of expenses relating to allowances that would not qualify for the exception from substantiation because they are not travel allowances paid to cover deductible expenses for specific journeys are:

- where a fixed annual travel allowance amount of, say, $2,000 a year is paid, regardless of how often or even whether travel is actually undertaken; or
- where a travel allowance is paid at a certain rate per hour for hours worked, even if deductible work-related travel is not undertaken.

58. However, a fixed annual entitlement for travel expenses may be a travel allowance where the allowance is based on a specified number of overnight stays and there is a requirement for recipients to repay that part of the entitlement referrable to trips not undertaken.

Must be paid as an allowance

59. An amount for travel expenses that has been folded-in as part of normal salary/wages, for example under a workplace agreement, is not considered to be an allowance. If an allowance has been folded-in as part of normal salary/wages the exception from substantiation contained in this Ruling does not apply. The necessary ***written evidence*** must be kept to support claims for deductible expenses incurred.

Must be for a bona fide travel allowance

60. For the substantiation exception to apply, the allowance must be a ***bona fide travel allowance***. That is, the amount paid must be an amount that could reasonably be expected to cover accommodation, or meals or expenses incidental to the travel.

61. A token amount of allowance, for example $5 per day to cover meals for travel that involves ***sleeping away from home***, would not be considered a payment that is expected to cover the purchase of three meals per day while travelling for work. The payment would not be considered a travel allowance for the purposes of the exception from substantiation.

62. What is a *bona fide* amount to cover accommodation or meals or expenses incidental to the travel depends on the facts of each case, including the arrangements for payment of the allowance.

Reasonable amount for meals

63. Subsection 900-50(2) of the ITAA 1997 requires that, in determining what is reasonable, the Commissioner must take into account the total losses or outgoings that it would be reasonable to incur for accommodation, food or drink, or expenses incidental to the travel. In determining the reasonable amount of a claim for meals, reference should be made to the period of the travel. That is, what expenses on meals (for example breakfast, lunch, dinner) it is reasonable to incur from the time the travel commences to the end of the travel period that are covered by the allowance, given the individual employment circumstances of that taxpayer.

Example 2

64. *Shena travels from her normal work place in Sydney to attend a meeting in Canberra. She leaves Sydney at 5.00 pm on Monday and stays 1 night in Canberra, returning to Sydney at 4.30 pm on the Tuesday. It is reasonable to expect Shena to incur the following meal expenses while travelling for work: Monday – dinner; Tuesday – breakfast and lunch. The amount of Shena's allowance covers these meals.*

Example 3

65. *Kim is a truck driver who is based in Brisbane. She regularly drives her truck from Brisbane to Maryborough. After unloading the truck she sleeps in the cabin for 5 or 6 hours before returning home. If Kim leaves Brisbane at 3.00 pm and returns home at 9.00 am the next day, it is reasonable for Kim to incur expenses on 2 meals while away - dinner and breakfast. The amount of Kim's allowances is intended to cover at least those meals.*

Office holders covered by the Remuneration Tribunal

66. Daily domestic travel allowance expense claims made by office holders covered by the Remuneration Tribunal are considered reasonable if they do not exceed the rate of allowances set by the Remuneration Tribunal for that office holder.

67. The Tribunal inquires into the allowances to be paid to Ministers, other Members of Parliament, officers of the Parliament, holders of office of Justice, judges of a Federal Court and certain public office holders.

68. The Tribunal rate covers accommodation, meals and incidental expenses incurred when travelling within Australia. With the exception of the special Canberra travel allowance for Federal Members of Parliament, the rate set by the Tribunal for the cost of accommodation covers accommodation at commercial establishments such as hotels, motels and serviced apartments.

69. Where accommodation is provided, the Commissioner accepts as reasonable, the amount for meals and incidentals for relevant office holders as determined by the Tribunal. If the amount for meals and incidentals is not specified by the Tribunal, the reasonable amounts are those given in the yearly Taxation Determination that apply in the circumstances of the office holder.

Travel allowances for Federal MPs

70. The Canberra travel allowance recognises that most Federal Members make 'more settled accommodation arrangements in Canberra'. This travel allowance is paid at a rate below that for full commercial accommodation, meals and incidentals. The Capital City travel allowance for commercial accommodation reflects the costs associated with taking up accommodation in commercial establishments such as hotels, motels and serviced apartments in capital cities other than Canberra.

71. The Capital City travel allowance for non-commercial accommodation is paid if accommodation is not taken up in a commercial establishment. The rate for this travel allowance is one-third of the commercial rate to cover the cost of meals and incidental travel expenses. Having regard to the circumstances under which Canberra and Capital City travel allowances are paid to Federal Members, the Commissioner accepts as reasonable, claims for expenses incurred up to the amount of allowance received.

Employee truck drivers who receive a travel allowance

72. An ***employee*** truck driver who, in the course of earning his or her income, is required to ***sleep away from home***, is considered to be travelling for work and may incur meal expenses as part of a work-related travel expense. Truck drivers generally do not incur accommodation expenses when travelling for work, as they sleep in their truck. Accommodation expenses incurred as part of work-related travel must be substantiated with ***written evidence*** as described in Subdivision 900-E of the ITAA 1997. The Commissioner sets out each year the reasonable amounts for food and drink expenses incurred by ***employee*** truck drivers as part of a travel allowance expense.

73. Subsection 900-50(2) of the ITAA 1997 requires that, in determining what is reasonable, the Commissioner must take into account the total losses or outgoings it would be reasonable to incur for accommodation, food or drink, or expenses incidental to the travel. In determining the reasonable amount to claim for meals, reference should be made to the period of the travel. That is, what meals (for example breakfast, lunch, dinner) would it be reasonable to incur from the time the travel commences to the end of the travel period, given the individual employment circumstances of the taxpayer.

74. If an ***employee*** truck driver, who receives a travel allowance and incurs work-related meal expenses, claims as a deduction an amount greater than the amount considered to be reasonable, the whole claim, not just the excess over the reasonable amount, must be substantiated by ***written evidence***. ***Travel records*** also need to be kept for work-related travel of 6 or more nights in a row. Taxation Ruling TR 95/18 'Income tax: employee truck drivers – allowances, reimbursements and work-related deductions' provides detailed information on the ***written evidence*** and ***travel records*** required to substantiate travel expenses, including meal expenses, for ***employee*** truck drivers.

75. The receipt of a travel allowance does not automatically entitle the ***employee*** truck driver to a deduction for travel expenses, nor does the amount of a travel allowance received determine if the claim is reasonable. Only the actual amount incurred on work-related travel expenses can be claimed as a deduction.

Employee truck drivers who do not receive a travel allowance

76. Claims for work-related travel expenses by ***employee*** truck drivers who are required to ***sleep away from home*** and who do not receive a travel allowance, must be substantiated. ***Written evidence*** is required to substantiate accommodation, meal and other work-related travel expenses. ***Travel records*** must be kept for work-related travel of 6 or more nights in a row. Taxation Ruling TR 95/18 provides detailed information on the ***written evidence*** and ***travel records*** required to substantiate travel expenses for ***employee*** truck drivers.

Truck drivers who are owner-drivers

77. Subdivision 900-D of the ITAA 1997 refers to the substantiation of business travel expenses and requires that ***travel records*** and ***written evidence*** be kept in accordance with Subdivision 900-E and Subdivision 900-F of the ITAA 1997. ***Travel records*** (for example a travel diary or similar record of activities undertaken during the travel) must be kept for travel of 6 or more nights in a row.

78. An owner-driver who, in the course of earning his or her income, is required to ***sleep away from home***, is considered to be travelling on business and may incur meal expenses as part of a travel expense. As owner-drivers do not receive a travel allowance, ***travel records*** and ***written evidence*** are required to substantiate accommodation, meal and other travel expenses.

79. In most cases a receipt can be obtained for the cost of a meal, for example, where it is purchased from a roadhouse with dining or takeaway facilities. It is considered reasonable for a truck driver to obtain receipts for meal expenses incurred in roadhouses or similar food outlets (for example fast food chains or diners).

80. It may not be reasonable for a truck driver to obtain receipts for some food and drink purchases from vending machines or outlets, such as roadside caravans, that do not normally provide receipts. These expenses are considered 'otherwise too hard to substantiate' (section 900-130) and must be supported by a diary or similar record providing details in accordance with subsection 900-125(3) of the ITAA 1997.

Reasonable overseas travel allowance expense claims

81. For overseas travel covered by an allowance, reasonable amounts are determined for food or drink or incidental expenses only. Under section 900-55 of the ITAA 1997, taxpayers must still obtain ***written evidence*** for accommodation expenses. A ***travel record*** must also be kept if the overseas travel involves being away from the taxpayer's ordinary residence for 6 or more nights in a row, whether or not the substantiation exception for ***written evidence*** for food, drink and incidental expenses applies.

82. A ***travel record*** is a record of activities undertaken during the travel (Subdivision 900-F of the ITAA 1997). It is not a record of expenses incurred during the travel. The purpose of a ***travel record*** is to show what activities were undertaken in the course of producing assessable income, so that expenses or portions of those expenses can be attributed to those income-earning activities.

83. Under section 900-65 of the ITAA 1997 crew members of international flights need not keep ***travel records*** (that is a record of activities undertaken during the travel). The exception is from keeping ***travel records*** only. It is not an exception from keeping ***written evidence*** for travel expenses if required. The exception from keeping ***travel records*** applies if:

- the allowance covers travel by the taxpayer as a crew member of an aircraft;
- the travel is principally outside Australia; and
- the total of the losses or outgoings claimed for the travel that are covered by the allowance does not exceed the allowance received.

84. If an ***employee***, who receives an overseas travel allowance and incurs work-related travel expenses, claims a deduction in excess of the reasonable meal and incidentals amount that are covered by the allowance, the whole claim must be substantiated, not just the excess over the reasonable amount. ***Written evidence*** must be obtained for overseas accommodation expenses regardless of whether an overseas travel allowance is received.

Summary of substantiation requirements for travel allowance expenses

85. The following table is a summary of the substantiation requirements for claims for those work-related travel allowance expenses covered by the allowance where the taxpayer is required to ***sleep away from home*** when travelling on work:

Travel allowance received and:	**Domestic Travel**		**Overseas Travel**	
	Written Evidence	**Travel Diary**	**Written Evidence**	**Travel Diary**
the amount claimed does not exceed the reasonable allowance amount				
- travel less than 6 nights in a row	No	No	No[1]	No
- travel 6 or more nights in a row	No	No	No[1]	Yes[2]
the amount claimed exceeds the reasonable allowance amount				
- travel less than 6 nights in a row	Yes – for the whole claim	No	Yes	No
- travel 6 or more nights in a row	Yes – for the whole claim	Yes	Yes	Yes[2]

[1] Regardless of the length of the trip, ***written evidence*** is required for overseas accommodation expenses – but not for food, drink and incidentals (see paragraph 81).

[2] Members of international air crews do not need to keep a travel diary (***travel record***) if they limit their claim to the amount of the allowance received (see paragraph 83).

Definitions

Bona fide travel allowance

86. A '***bona fide travel allowance***' is an amount that could reasonably be expected to cover accommodation, or meals or expenses incidental to travel. This does not require that the amount paid by the employer must equate dollar for dollar to the employee's actual expenditure. However there must be relativity between the quantum of the travel allowance and the purpose for which it is said to be paid. A token amount, or a general payment, is not a ***bona fide travel allowance***. In this context the words 'cover' and 'covered' refer to the nature of the expenses for which the allowance is provided, that is the subject matter to be dealt with by the allowance paid, namely accommodation and applicable meal expenses. (See *Re McIntosh and F.C. of T.* [2001] AATA 702; 47 ATR 1242).

Bona fide overtime meal allowance

87. A '***bona fide overtime meal allowance***' is an amount that could reasonably be expected to cover, that is provide for, the costs of food and drink in connection with overtime worked. There must be relativity between the quantum of the overtime meal allowance and the purpose for which it is said to be paid. A token amount, an amount paid without regard to likely expenses is not a ***bona fide overtime meal allowance***.

Employee

88. The term '***employee***' or '***employees***' as it is used in this Ruling, applies to individuals who are employees as commonly understood and individuals to whom subsection 900-12(1) of the ITAA 1997 applies. These individuals include a common law employee, a director of a company and an office holder, but do not include labour hire workers as described in section 12-60 of Schedule 1 of the *Taxation Administration Act 1953*.

Sleep away from home

89. We consider the term 'travel away from the employee's ordinary residence' means, for most ***employees***, that the travel involves an overnight stay; that is, the occupation of accommodation or the occasion of an outgoing on accommodation, for example sleeps in a motel/hotel or, for a truck driver, sleeps in their truck. Some ***employees*** may work at night and sleep during the day; therefore, the term '***sleep away from home***' is used in this Ruling.

Travel allowance

90. A travel allowance is an allowance an employer pays or is to pay to cover losses or outgoings:

- that an employee incurs for travel away from their ordinary residence that is undertaken in the course of their duties as an employee; and
- that are losses or outgoings for accommodation, food, drink or expenses incidental to the travel.

(see paragraphs 53 to 65 in respect to the requirements for the exception for travel allowance expenses.)

Travel record

91. A ***travel record*** is a record of activities undertaken during the travel (Subdivision 900-F of the ITAA 1997). It is not a record of expenses incurred during the travel. A ***travel record*** can be a diary or similar document, which specifies the activities as required in section 900-150 of the ITAA 1997. The purpose of a ***travel record*** is to show which activities were undertaken in the course of producing assessable income, so that expenses or portions of those expenses can be attributed to those income-earning activities.

Written evidence

92. The term ***written evidence*** when used in this ruling refers to documentation and records described in Subdivision 900-E of the ITAA 1997.

Detailed contents list

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Commissioner of Taxation
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Related Rulings/Determinations:

TR 92/1; TR 95/18; TR 97/16

Previous Rulings/Determinations:

TR 1995/26; TR 1996/21;
TR 1997/14; TR 1998/10;
TR 1999/7; TR 2000/13;
TR 2001/4; TR 2002/12;
TR 2003/7

Subject references:

- accommodation allowances
- allowances
- award overtime and allowances
- domestic travel allowance
- exception from substantiation
- judges
- meal allowance
- meals
- members of parliament
- overseas travel allowance
- overseas travel expenses
- overtime meal allowances
- owner drivers
- parliamentarians
- reasonable allowances
- reasonable claim
- substantiation
- travel
- travel allowances
- travel diary
- travel expenses
- travel record
- truck drivers
- work-related expense
- written evidence

Legislative references:

- ITAA 1997 8-1
- ITAA 1997 900-12(1)
- ITAA 1997 900-12(3)
- ITAA 1997 900-15(1)
- ITAA 1997 Subdiv 900-B
- ITAA 1997 900-30(3)
- ITAA 1997 900-30(3)(b)
- ITAA 1997 900-50
- ITAA 1997 900-50(2)
- ITAA 1997 900-55
- ITAA 1997 900-60
- ITAA 1997 900-65
- ITAA 1997 Subdiv 900-D
- ITAA 1997 Subdiv 900-E
- ITAA 1997 900-125(3)
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- ITAA 1997 900-150
- ITAA 1997 Subdiv 900-F
- TAA 1953 Pt IVAAA
- TAA 1953 Sch 1 12-60

Case references:

- Re McIntosh and FC of T [2001] AATA 702; 47 ATR 1242

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