



Australian Government



TAX  
PRACTITIONERS  
BOARD

# Work-related expenses

**Presented by**

Peta Lonergan, Assistant Commissioner, Australian Taxation Office

Michael O'Neill, Secretary/Chief Executive Officer, Tax Practitioners Board

# Welcome

*'In the spirit of reconciliation, we acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past, present and emerging. We extend that respect to all Aboriginal and Torres Strait Islander peoples today.'*

Access the presentation slides : [tpb.gov.au/webinar-hub](https://tpb.gov.au/webinar-hub)

# What we will cover today

- ✓ Why work-related expenses are important
- ✓ What's new this tax time
- ✓ Getting it right
- ✓ Common errors and where to get help
- ✓ Professional conduct of tax practitioners
- ✓ Your obligations
- ✓ Q&A

# Meet your presenters



**Peta Lonergan**

Assistant  
Commissioner, ATO



**Michael O'Neill**

Secretary/Chief Executive  
Officer, TPB

# Why are work-related expenses important?



- Individuals not in business tax gap of \$8.4 billion.
- Work-related expenses make up almost half of this gap.
- Latest gap findings saw a 78% adjustment rate in work-related expenses for agent-lodged returns.
- Reasons for adjustments:
  1. No Nexus.
  2. Lack of substantiation.
  3. Incorrect apportionment.

# What's new or different for 2021/22

- Deductions – work-related COVID-19 tests.
- Working from home – continued use of the simplified method for calculating working from home expenses.



# Work-related expenses – getting it right

Focus areas in relation to work-related expenses:

- **Record keeping** – record keeping is the foundation of all allowable deductions. Your clients must have a record to prove their claims.
- **Nexus** – the work-related expenses must relate to their current income producing activities.



# Work-related expenses – common errors



Common errors when making work related expense claims:

- **Double dipping** – using the shortcut method to claim working from home expenses then separately claiming mobile phone, internet and other claims.
- **Car expenses** – using the cents per kilometre method then claiming expenses separately such as fuel, car insurance, repairs and registration.
- **Conventional clothing** – with few exceptions, clothing is a private expense.
- **Substantiation exceptions** – these do not allow standard deductions.



# Changes in your clients' circumstances



- Did your clients' circumstances change over the financial year?
- Are there any changes in working arrangements and the potential flow-on-effects to their deductions?
- Look for a connection between primary source of income and the expenses they're looking to claim.
- Your client may need to have new records to support their claims.

# Work-related expenses – the 3 golden rules

There are three golden rules for claiming work related expenses:

1. Cost incurred
2. Nexus
3. Substantiation



# Code of Professional Conduct



# Professional conduct

- All registered tax practitioners are required to comply with the Code of Professional Conduct.
- Professional conduct refers to the way you act in your professional capacity.
- When providing services, it is expected you will display an appropriate, professional standard of behaviour and uphold the integrity of the tax system.

# Code of professional conduct

## Code item 1

Act honestly and with integrity

## Code item 2

Comply with tax laws in the conduct of your personal affairs

## Code item 3

Account to your client for money or other property you hold in trust

## Code item 4

Act lawfully in your client's best interest

## Code item 5

Manage conflicts of interest

## Code item 6

Do not disclose information without client permission

## Code item 7

Ensure tax agent services are provided competently

## Code item 8

Maintain the knowledge/skills relevant to the services you provide

## Code item 9

Take reasonable care to ascertain your client's state of affairs

## Code item 10

Take reasonable care to ensure taxation laws are applied correctly

## Code item 11

Do not obstruct the proper administration of taxation laws

## Code item 12

Advise your client of their rights and obligations

## Code item 13

Maintain professional indemnity insurance

## Code item 14

Respond to requests and directions from the Board

# Your obligations



# Code item 1

## **You must act with honesty and integrity**

The principles of honesty and integrity require you to ensure:

- straightforwardness
- fair dealing
- a commitment not to mislead or deceive
- truthfulness.



## Code item 4

### **You must act lawfully in the best interests of your client**

- You must act in your client's best interest as long as it is lawful.
- Do not follow instruction from a client that contravene the law.
- It is unacceptable to turn a blind eye to a client's illegal tax affairs.





## Code item 7

**You must ensure services you provide, or that are provided on your behalf, are provided competently**

Ultimately, you are accountable for tax agent services provided on your behalf, and you need to ensure they are provided competently. You need to ensure:



Adequate  
supervision



Competent  
standards



Appropriate  
disclosures

# Code items 9 and 10

## You must take reasonable care

You must take reasonable care in:

- first, ascertaining a client's state of affairs
- second, ensuring taxation laws are applied correctly to the circumstances in relation to client advice.



# Code item 11

## **You must not knowingly obstruct the proper administration of the taxation laws**

- You must perform duties and functions as required by taxation laws.
- You will breach the Code if you knowingly obstruct the Commissioner of Taxation or the TPB as required by the taxation laws.



# Examples



## Example: Code item 9

- Suzanne engages George to lodge her income tax return.
- She has been working as a pharmacy assistant for 5 months.
- She provides George with her Payment Summary showing she earned \$30,000 and instructs him to deduct work related expenses of \$12,000.
- George notices this claim seems out of the ordinary. After asking further relevant questions, George establishes Suzanne is not entitled to the claims.
- He advises her of her entitlements and complies with his obligations under Code item 9.

## Example: Small Business Benchmarks



- Michelle engages Frank to prepare and lodge her income tax return.
- She provides information that indicates her turnover for the year was \$35,000 with expenses totalling \$25,000.
- After consulting the ATO Small Business Benchmarks, Frank notices Michelle's turnover appears to be low and her expenses are high for her industry.
- Should Frank lodge the income tax return as instructed it is likely he would come to the attention of the ATO who will seek additional information to substantiate the income and expenses.

## Example: Rental properties



- Hugo engages Maria to provide advice in relation to his rental property sale.
- As part of his instructions, Hugo informs Maria that his rental property had been sold.
- He doesn't mention the rental property was his place of residence for 15 years and that he'd only been renting it for 5 months.
- Maria advises Hugo to provide correct and complete information so that she can properly ascertain his state of affairs.
- In this case, Maria has satisfied her obligations under Code item 9.

## Poll 1

- Daniel, a registered tax agent, has a client who is a supermarket cashier and is a new client this tax time.
- The client advises Daniel that they want to make a work-related expense claim for the use of their mobile phone.
- Daniel makes the work-related deduction for his client and apportions the cost 50/50.
- In this scenario, has Daniel complied with his obligations under Code item 9?



## Poll 2

- Judy is a registered tax agent. Her client, John wants to claim work-related travel expenses he has incurred.
- John is required to travel for work purposes. He pays for the trips himself and is not reimbursed by his employer. He keeps all his receipts and records of his trips in a diary, including:
  - a description of the work activity he's completing
  - the date and time of the work activity
  - how long the work activity lasted; and
  - the location of the work activity.
- In this situation can Judy legally claim the work-related travel expenses?

# Consequences for failing to comply

# Consequences for failing to comply



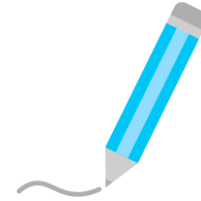
Termination



Suspension



Order



Written  
caution

# Case study



## Case study

- The ATO identified S & T Income's behaviour through their compliance activities and conducted an audit of 8 of their clients.
- All 8 clients had work-related expense claims reduced and/or disallowed, revealing a total tax shortfall of over \$30,000.
- Following an ATO referral, we investigated the company and found they breached the Code by failing to provide tax agent services competently and terminated their tax agent registration.
- S & T Income appealed the decision to the AAT.
- The AAT affirmed our decision to terminate the registration, noting concern that should their registration be reinstated, there is a real risk of future non-compliance.



# Questions

# Stay in touch with the TPB



[tpb.gov.au](http://tpb.gov.au)



[facebook.com/TPB.gov](https://facebook.com/TPB.gov)



[tpb.gov.au/contact](http://tpb.gov.au/contact)



[linkedin.com/tax-practitioners-board](https://linkedin.com/tax-practitioners-board)



Australian enquiries  
1300 362 829



[twitter.com/TPB\\_gov\\_au](https://twitter.com/TPB_gov_au)

Overseas enquiries  
+61 2 6216 3443



[youtube.com/TPBgov](https://youtube.com/TPBgov)

Our enquiry lines are open  
Monday to Friday 9 am to 5 pm  
(Sydney time)

# Stay in touch with the ATO



[ato.gov.au](https://ato.gov.au)



[ato.gov.au/About-ATO/Contact-us/](https://ato.gov.au/About-ATO/Contact-us/)



13 28 66  
(Mon-Fri 8am-6pm AEST)  
(Sat 10am-2pm AEST)



[facebook.com/atogovau](https://facebook.com/atogovau)



[twitter.com/ato\\_gov\\_au](https://twitter.com/ato_gov_au)



[youtube.com/user/AusTaxOffice](https://youtube.com/user/AusTaxOffice)



[linkedin.com/company/  
Australian-taxation-office](https://linkedin.com/company/Australian-taxation-office)



# Disclaimer

The information included in this webinar is intended as a general reference for users. The information does not constitute advice and should not be relied upon as such.

While the Tax Practitioners Board (TPB) makes every reasonable effort to ensure current and accurate information is included in this webinar, the TPB accepts no responsibility for the accuracy or completeness of any material contained in this webinar and recommends that users exercise their own skill and care with respect to its use.

Links to other websites may be referenced in this webinar for convenience and do not constitute endorsement of material on those sites, or any associated organisation, product or service.

Copyright is retained in all works contained in this webinar. Unless prior written consent is obtained, no material may be reproduced, adapted, distributed, stored or transmitted unless the reproduction is for private or non-commercial purposes and such works are clearly attributed to the TPB with a copy of this disclaimer attached.