[¶16-210] SUBSTANTIATION OF WORK EXPENSES

Last reviewed: 31 March 2010

The key principle underlying substantiation is that to deduct work expenses, the taxpayer (whether an individual or a partnership including at least one individual) needs to substantiate them by obtaining written evidence of the expense (ITAA97 Div 900: s 900-1 to 900-250).

The substantiation rules are explained below. Many of the concepts are the same as those contained in the car expenses substantiation rules (¶16-320) and appropriate cross-references to further explanation have been provided to avoid unnecessary duplication.

- Written evidence is a document obtained from the supplier of the goods or services that contains certain information (¶16-340).
- The requirement to obtain a document from the supplier does *not* apply if the expense is $10 or less and the total of all such expenses is $200 or less. In such cases, the taxpayer may instead make a record of the expense.
- The taxpayer's record of the expense (eg in a diary or on a travel itinerary) will also be sufficient if it would be unreasonable to insist on the supplier's document. Such expense may be more than $10 and does not count towards the $200 limit. Examples of expenses for which the taxpayer's record is acceptable are: toll bridge fees, parking meter fees, cash payments to informants and entrance fees to shows where entry tickets must be handed in on entry (*Taxation Ruling*TR 97/24).
- Annual payment summaries (¶26-640) can be used as evidence of certain expenses, including where expenses of the same nature are shown on the summary as a total (eg the total amount of union fees paid during the year).
- The written evidence must be retained by the taxpayer and be made available to the Commissioner on request. It is not required to be lodged with annual tax returns.
- Records need to be kept for a period of five years from the date of lodgment of the return in which the claims are made. This period is extended if, at the end of the five years, the taxpayer is involved in a tax dispute with the Commissioner.
- The substantiation requirements do *not* apply where an employee's claims for work expenses (including laundry expenses) total $300 or less. If the total amount of the claims exceeds $300 the total amount must be substantiated. Expenses relating to allowances covered by special rules (ie overtime meal allowances, travel allowances and award transport payments: see below) and car expenses are not taken into account in determining whether this limit has been reached.
- Even if the work expenses claimed exceed $300, the taxpayer can deduct up to $150 of unsubstantiated laundry expenses. Laundry expenses include the cost of washing, drying or ironing clothing, but not dry-cleaning.
- Special rules apply if records are lost or destroyed (¶16-340).
- The Commissioner has a discretion in certain circumstances not to apply the substantiation requirements (see below).

Even where the substantiation requirements do not apply (as in the case of certain overtime meal expenses — see below) the taxpayer must still be able to show that the expense was incurred for deductible purposes and that the basis for determining the amount of the claim is reasonable (*Taxation Ruling*TR 2004/6).

Work expenses

"Work expenses" are expenses that are incurred by a taxpayer in producing salary, wages or certain PAYG withholding payments (ie payments to employees, company directors and office holders, return to work payments, retirement payments, employment termination payments and annuities, benefit and compensation payments) (¶26-120) (s 900-12). Common examples of work expenses include the cost of tools, protective clothing, periodical subscriptions to trade, business or professional associations, repairs, payments

associated with the leasing of property used in the job, and interest and borrowing costs associated with loans used to produce salary or wages. Depreciation of property used to produce the salary or wages (and other withholding payments) is expressly included in work expenses (s 900-30).

Work expenses include travel allowance expenses and meal allowance expenses. Most motor vehicle expenses are not included in work expenses — however, they may be covered by the car expenses substantiation rules (¶16-320).

Local government councillors who receive an allowance or other remuneration and incur expenses while performing council business are not required to substantiate work expenses unless the council has passed a unanimous resolution that it be subject to PAYG withholding and has notified the Commissioner (TAA Sch 1 s 446-5). Local government councillors who are not required to substantiate their expenses must still be able to show that they incurred the expenses (*Taxation Determination*TD 93/4).

Laundry expenses

If the total amount of work expenses exceeds $300 and laundry expenses exceed $150, the whole amount must be substantiated by written evidence (eg a one-month diary, evidence of average power consumption for household appliances and receipts). However, the taxpayer is not required to maintain written evidence for: (a) laundry expenses exceeding $150, provided total work expenses are less than $300; or (b) laundry expenses of up to $150 (whether or not total work expenses exceed $300). Where written evidence is not required, the Commissioner will accept claims of $1 per load (if work clothing only is being laundered), or 50 cents per load (if both work and other clothing is being laundered) (*Taxation Ruling*TR 98/5).

Overtime meal allowances

The general rule is that no deduction is allowable for expenses incurred by an employee on food and drink for which a meal allowance is paid unless written evidence for the expense is obtained. However, an important exception to this rule applies if the taxpayer receives an overtime meal allowance and the Commissioner considers the total of the expenses claimed to be reasonable. In such a case, the cost of the overtime meals may be deductible without the requirement for written evidence. If the claim exceeds the reasonable amount specified by the Commissioner, the whole claim must be substantiated, not just the excess over the reasonable amount. The reasonable amount for the 2009/10 income year is $24.95 per overtime meal (*Taxation Determination*TD 2009/15). An allowance up to that amount need not be included in the taxpayer's return provided the allowance was not included in the payment summary and was fully expended and no deduction is claimed (*Taxation Ruling*TR 2004/6).

An "overtime meal allowance" is one that is paid under a law or industrial award or agreement for the purpose of enabling an employee to buy food or drink in connection with overtime. It does not include allowances negotiated privately between an employer and an employee or amounts folded in as part of normal salary and wages.

Travel allowances

No deduction is generally allowable for expenses incurred by an employee for the cost of food, drink, accommodation and incidentals for which a travel allowance is paid, unless written evidence of the expenditure is obtained and travel records (such as a travel diary) are kept containing particulars of each activity undertaken on the relevant travel (¶16-300). There are two exceptions to this rule. Note that a taxpayer relying on the two exceptions may still be required to show the basis for determining the amount of the claim and the connection between the taxpayer's work and the expense. In relation to accommodation, the domestic travel exception only applies if the taxpayer has used commercial accommodation establishments (*Taxation Ruling*TR 2004/6).

Travel in Australia

The first exception applies where the taxpayer receives a travel allowance relating to *travel in Australia*. If the Commissioner considers the amount of the expenses claimed for travel covered by the allowance to be reasonable, the travel expenses specified above may be deductible without written evidence or a diary (s 900-50). Domestic travel allowance expense claims are considered to be reasonable if they do not exceed the daily rates set out in *Taxation Determination*TD 2009/15 (for the 2009/2010 income year). For office holders covered by the Remuneration Tribunal, the daily travel allowances set by the Remuneration Tribunal for the particular office holder are regarded as reasonable. If the taxpayer claims an amount greater than the amount considered reasonable, the whole claim, not just the excess, must be substantiated. In *McIntosh* 2001 ATC 2272, the mere fact that a construction worker received a travel allowance did not entitle him to make an unsubstantiated claim for the maximum amount considered reasonable. However, the worker was entitled to claim $60 a day for unsubstantiated meal and accommodation expenses actually incurred, even though his actual travel allowance was only $39 a day.

For *employee long distance truck drivers* who receive travel allowances and who sleep away from home, a reasonable amount for meal expenses for the 2009/10 income year is $82.05 (increasing to $89.50 for drivers with an annual salary above $93,600) (*Taxation Determination*TD 2009/15). The following claims by employee truck drivers must be substantiated in full: (a) claims exceeding the above rates by drivers who received a travel allowance and slept away from home; (b) accommodation expenses, even if an allowance has been received; and (c) claims by drivers who did not receive a travel allowance. Expenses, such as for meals, incurred by drivers who did not sleep away from home are not considered to be in respect of travel and are not deductible, even if a travel allowance has been received. *Taxation Ruling*TR 95/18 contains detailed information on the written evidence and travel records required to substantiate travel expenses for employee truck drivers. As owner drivers do not receive a travel allowance, travel records and written evidence are required to substantiate their accommodation, meal and other travel expenses.

Travel outside Australia

The second exception relates to food, drink and incidentals, but not accommodation. It applies where the taxpayer receives an allowance for *travel outside Australia*. If the Commissioner considers that the total of the expenses claimed for travel covered by the allowance is reasonable, then those expenses may be deductible notwithstanding the absence of written evidence. Under this exception, accommodation expenses will still need to be substantiated by written evidence. If the taxpayer is absent for six or more nights in a row, travel records must be kept. However, where an overseas travel allowance is received by a taxpayer as a member of the crew of an international flight, and the claim does not exceed the amount of the allowance received, the travel records requirement is also removed. Overseas travel allowance expense claims are considered to be reasonable if they do not exceed the overseas travel allowance amount (for meals and incidentals) set out in *Taxation Determination*TD 2009/15 (for the 2009/10 income year).

If the taxpayer claims more than the amount considered reasonable, the whole claim, not just the excess, must be substantiated.

When the travel allowance exceptions do not apply

The travel allowance exception does not apply to part-day travel allowances paid to employees for travel not involving an overnight absence — therefore, such allowances are fully assessable and any deductions are subject to the ordinary substantiation requirements discussed at ¶16-300 (*Taxation Ruling* TR 2004/6). Further, the exception only applies in relation to an allowance paid to cover expenses of work-related travel and would not apply, for example, where a set travel allowance is paid for the year regardless of whether or how often travel is undertaken. The allowance must be a bona fide amount reasonably expected to cover travel costs (*Taxation Ruling*TR 2004/6).

The ATO considers that the travel allowance exception does not apply to claims for living expenses of academics on sabbatical leave and that such claims must be substantiated in full.

Award transport payments

Unless the taxpayer elects otherwise, the substantiation provisions do not apply to claims within the limits of payments to employees for fares, car expenses or other transport costs, where the payment (either by way of allowance or reimbursement) does not exceed the amount payable under the relevant award as at *29 October 1986*. See also "Claiming a deduction for car expenses — award transport payments" at www.ato.gov.au and ¶16-326.

Commissioner's discretion to disregard substantiation rules

The Commissioner has a limited discretion not to apply the substantiation rules to an expense where the rules would otherwise affect the taxpayer's right to a deduction for the expense. The substantiation rules will not apply where the nature and quality of the evidence the taxpayer has to substantiate the claim satisfies the Commissioner that the taxpayer: (a) incurred the expense; and (b) is entitled to deduct the amount claimed. For an example of a case in which the AAT found that the Commissioner's discretion should have been exercised, see *Chaudri* 99 ATC 2138. For the Commissioner's views on the exercise of the discretion, see *Taxation Ruling*TR 97/24 and *Practice Statement* PS LA 2005/7 (¶16-340).

[FITR ¶33-270, ¶680-100; FTR ¶708-150]

[¶16-300] SUBSTANTIATION OF OVERSEAS AND DOMESTIC TRAVEL

Last reviewed: 31 March 2010

Special substantiation rules apply to expenses in relation to overseas and domestic travel (ITAA97 Div 900: s 900-1 to 900-250). The rules apply to expenses incurred by the taxpayer on his/her *own* travel, whether as a recipient of certain PAYG withholding payments (ie payments to employees, company directors and office holders, return to work payments, retirement payments, employment termination payments and annuities, and benefit and compensation payments: ¶26-120), an employer, self-employed person, or a partnership that includes at least one individual. They do *not* apply to expenses incurred by a company or a trust.

The effect of the substantiation rules is that domestic and overseas travel expenses are not deductible unless the following two conditions are satisfied:

> (1) Written evidence (¶16-340) must be obtained by the taxpayer in respect of expenses relating to travel, regardless of length of absence from home. In the case of a *business* travel expense (ie a travel expense incurred in producing income other than salary or wages), written evidence need only be kept if the travel involved at least one night away from home.
> (2) Travel records (ie a travel diary or similar document) must be kept by a taxpayer where the taxpayer was away from the ordinary place of residence for six or more consecutive nights. The records must contain particulars of each business activity undertaken during the relevant travel. Entries must be made before the activity ends or as soon as possible afterwards, setting out: (a) the nature of the activity; (b) the day and approximate time when it began; (c) how long it lasted; and (d) where the activity took place.

The requirements for retention and production of these records are similar to those applying to car expenses (¶16-320).

These rules extend to car expenses incurred in respect of overseas travel and taxi expenses, but not to other motor vehicle expenses — car expenses are subject to their own substantiation rules (¶16-320). Taxpayers are exempt from the substantiation rules in any year in which their claim for work expenses, including travel expenses, does not exceed $300 (¶16-210). Expenses relating to allowances covered by special rules (ie overtime meal allowances, travel allowances and award transport payments: ¶16-210) are not taken into account in determining whether this limit applies.

Owner-drivers of long distance trucks who are required to sleep away from home are required to substantiate accommodation, meal and other travel expenses (if the driver does not sleep away from home, those expenses are not considered to be deductible as travel expenses). The Commissioner considers that it is reasonable to obtain receipts for meal expenses in roadhouses or other similar food outlets (food and drink purchases from vending machines or roadside caravans may be substantiated by an entry in a diary or other record). A diary must be kept for absences of six or more nights in a row (*Taxation Ruling* TR 2004/6).

[FITR ¶680-220, ¶680-495, ¶680-760]

[¶16-320] SUBSTANTIATION RULES FOR CAR EXPENSES

Click to open document in a browser

Last reviewed: 31 March 2010

Special substantiation rules apply to claims for car expenses incurred in relation to travel within Australia (ITAA97 Div 28: s 28-1 to 28-185). These rules apply to employees as well as to other recipients of withholding payments (¶26-120), self-employed persons and partnerships including at least one individual taxpayer, but *not* to companies or trusts. The rules do not apply unless the taxpayer owns or hires under a hire purchase agreement or leases the car. A taxpayer who does not own the car cannot use the special methods but can claim deductions for fuel, oil and other actual costs.

See ¶16-324 for the types of vehicle to which the rules apply. The substantiation rules for car expenses calculated under the log book method or the one-third of actual expenses method (see below) are set out in ITAA97 Subdiv 900-C (s 900-70; 900-75).

There are several methods of claiming car expenses deductions that can satisfy the substantiation rules. Where the rules are not met, no deduction is allowable for the expenses. Unlike employees' work expenses, which are subject to a $300 threshold, there is no substantiation-free threshold for car expenses.

If a taxpayer wishes to claim car expenses by reference to actual expenses apportioned between income-producing use and private use of the car, the expenses must be substantiated under "the log book method". Under this method, claims must be supported by written evidence, log book records and odometer records.

Example

> A taxpayer's total car expenses, including depreciation, for the income year amount to $9,000 and the business proportion of these expenses is 70%. Where the requirements of the log book method are satisfied, the taxpayer's deduction for car expenses would be calculated as 70% × $9,000 = $6,300.

Taxpayers can get full or partial exemption from the substantiation rules by electing to make their claim on an arbitrary basis, ie using a method of deduction which is not directly related to the actual expenditure on business usage.

The various methods that can be used are shown below. For guidance as to which method will provide the greatest deduction in particular circumstances, see ¶16-375.

Method	Extent of substantiation required
Log book method	Log books required to be kept for at least 12 weeks in the first year and then every five years (¶16-350). Odometer records required (¶16-360). Written evidence of expenses (receipts, etc) required (¶16-340). Fuel and oil expenses may be substantiated by odometer records (¶16-340, ¶16-360).
One-third of actual car expenses method (if business use exceeds 5,000 km)	Written evidence of expenses required (¶16-340). Log book records not required. Fuel and oil expenses may be substantiated by documentary evidence or by odometer records (¶16-340).
12% of original value method (if business use exceeds 5,000 km)	No substantiation required (¶16-370). Number of business kilometres based on reasonable estimate.
Cents per kilometre method (if business use is 5,000 km or less or claim limited to 5,000 km)	Substantiation records not relevant. Number of business kilometres based on reasonable estimate (¶16-370).

The options available where a car travels more than 5,000 business kilometres are also available where a taxpayer first starts or ceases to use the car part-way through the year and the business usage would have exceeded 5,000 km if the car had been used for the whole year.

Taxpayers are not required to lodge their supporting records with their returns. However, they must produce them if required to do so by the Commissioner (ITAA97 s 900-75; 900-160 to 900-185).

Records must be kept for five years after the relevant return is lodged or until the relevant dispute is settled (s 900-165; 900-170). Where the log book method is used, the retention period applies from the date of lodgment of the last return in which a claim is based on those records. The Commissioner has a limited discretion to disregard a failure to comply with the retention requirements applying in respect of log books and odometer records. The substantiation rules will not apply where the nature and quality of the evidence the taxpayer has to substantiate the expenses (under either the log book or the one-third of actual expenses method) satisfies the Commissioner that the taxpayer: (a) incurred the expense; and (b) is entitled to deduct the amount claimed (ITAA97 s 900-195; 900-200). For the rules applicable where records are lost or destroyed, see ¶16-340.

For situations in which car expenses need not be calculated using one of the four methods, see ¶16-324.

[FITR ¶70-000ff, ¶680-380, ¶680-875, ¶681-095]

[¶16-340] WRITTEN EVIDENCE

Click to open document in a browser

Last reviewed: 31 March 2010

Where a taxpayer claims car expenses using the log book method or the one-third of actual car expenses method (¶16-320), the expenses must be verified by written evidence such as a document from the supplier of the goods or services (ITAA97 Div 900: s 900-1 to 900-250). While generally there is no time limit for getting written evidence of an expense, the taxpayer is not entitled to a deduction until he/she has obtained the written evidence. However, the deduction may be claimed, even in the absence of the written evidence, if the taxpayer has good reason to expect to obtain the evidence within a reasonable time. If the written evidence is obtained after the end of the income year, the expense is deducted in that income year, not in the year in which the written evidence is obtained (s 900-110).

The supplier's document (eg a receipt, invoice, certificate or statement) must set out the name of the supplier, the amount of the expense, the nature of the goods or services supplied, the date the expense was incurred and the date of the document. This is subject to two exceptions: (a) if the supplier's document does not show the day the expense was incurred, the taxpayer may use other independent evidence such as a bank statement to show when the expense was paid; and (b) if the supplier's document does not specify the nature of the goods or services (eg a credit card receipt), the taxpayer may add that information to the document before lodging the income tax return (s 900-115).

The Commissioner will accept a document containing the necessary information, whether issued by the supplier or a third party (eg a bank statement evidencing a BPAY or internet banking transaction). Such record is not required to show when the document was produced, provided the date of the payment is shown. Electronic records and electronic copies of records are also acceptable (*Practice Statement* PS LA 2005/7).

Depreciation

In relation to claims for depreciation, the supplier's document must record the name of the supplier, the cost of the property to the taxpayer, the nature of the property, the date on which the property was acquired by the taxpayer, and the date on which the document was made out (s 900-120). If the supplier's document does not specify the nature of the property, the taxpayer may write in the missing details. If the taxpayer does not get the supplier's document in time, eg because he/she only decided to use the property for income-producing purposes several years after acquiring it, the deduction may still be available (see below under "Special situations").

Fuel and oil expenses

Where a claim in respect of oil and fuel is made by a taxpayer using the one-third of actual expenses method, the taxpayer has a choice. The claim can be substantiated by either obtaining written evidence or by maintaining odometer records (s 900-70(2)). Where odometer records are relied on, the Commissioner accepts a reasonable estimate of fuel and oil costs based on business kilometres travelled, average fuel and oil costs, and average fuel and oil consumption (*Taxation Determination*TD 97/19). A taxpayer using the log book method is not required to obtain written evidence of fuel and oil expenses (as odometer records are already required to be kept under that method) (s 900-70(3)).

Small claims

The requirement to obtain written evidence does *not* apply where the taxpayer makes a claim for expenses which individually do not exceed $10 and which in total do not exceed $200 for the income year. Nor does it apply if it would be unreasonable to expect the taxpayer to obtain written evidence of the expense (even if the expense is more than $10 or the $200 limit is exceeded). In such cases, it will be sufficient for the

taxpayer to record all the relevant details of the expense in a document (such as a diary) as soon as possible after incurring the expense (s 900-125; 900-130).

The taxpayer's own document must contain all the information that would have been required to be contained in the supplier's document (diary entries simply showing where the taxpayer was on certain days without details of goods and services purchased would be insufficient). A series of cheque butts containing the required information (supplier's name, amount, nature of the goods or services, date) would seem sufficient to satisfy this requirement. In the case of depreciation, the taxpayer's document must record, as soon as possible after the end of the income year, the nature of the property, the amount of depreciation, the day the record is made and who made the record.

Special situations

Relief from the substantiation requirements may be granted by the Commissioner if the nature and quality of the evidence the taxpayer can produce satisfies the Commissioner that the taxpayer incurred the expense and is entitled to deduct the amount claimed (s 900-195). A bona fide attempt to comply with the requirements is likely to prompt the exercise of the discretion, but unsupported estimates and the taxpayer's unsupported statements will not. The discretion is unlikely to be exercised in the absence of supporting documentation or factual material evidencing the expense (*Taxation Ruling*TR 97/24; *Snaidr* 98 ATC 2048; *Case* 12/99 99 ATC 209), even where it is reasonable to assume that the taxpayer did incur some work-related expenses (*Case* 15/2000 2000 ATC 234).

In addition, the right to a deduction is not affected by the failure to follow the substantiation rules if the *only* reason for such failure was that the taxpayer had a genuine and reasonable expectation that he/she would not need to comply with those rules (s 900-200). An example is the taxpayer's reasonable expectation, at the time the expense was incurred, that the expense would be in an exception category (eg the expectation that work expenses totalling less than $300 would be incurred during the year). While ignorance of the law, recklessness or carelessness will not attract the discretion, a reasonable expectation created by ATO advice or conduct may (*Taxation Ruling*TR 97/24).

Where documents are lost or destroyed, the following rules apply (s 900-205). Complete copies of documents are treated as the original document (however, the claim for deduction will fail if the original document would not have complied with the substantiation rules: *Turner* 99 ATC 2262). If no complete copy existed and the Commissioner is satisfied that the taxpayer took reasonable precautions to prevent the loss or destruction (ie there was no recklessness or carelessness), then: (a) the deduction is not affected if the lost or destroyed document was not written evidence, ie it was a log book, odometer records or a travel record; or (b) if the document was written evidence, substitute written evidence (eg a substitute receipt) will suffice. If it is not reasonably possible to obtain substitute written evidence (ie if a bona fide attempt to obtain a copy is made or it is reasonable to believe that such an attempt would be unsuccessful), the deduction is not affected by the loss or destruction of the document (*Taxation Ruling*TR 97/24).

[FITR ¶680-380, ¶680-620, ¶680-650, ¶680-660, ¶681-095, ¶681-110]

[¶16-350] LOG BOOK REQUIREMENTS

Click to open document in a browser

Last reviewed: 31 March 2010

In addition to written evidence (¶16-340) to substantiate car expenses, taxpayers using the log book method must support their claim by appropriate log book records (ITAA97 s 28-105; 28-130) and odometer records (ITAA97 s 28-135; 28-140).

For the first year in which car expenses are claimed using the log book method, a log book recording each business journey must be kept for a minimum continuous period of at least 12 weeks at any time in the year. The 12-week period may overlap the start of an income year. To use the log book method for two cars, the log book for each car must cover the same period. Odometer records must also be kept showing the odometer reading of the car at the beginning and end of the 12-week period (¶16-360).

The log book must include for each business trip: (a) the date the trip began and ended; (b) odometer readings at the start and end of the trip; (c) kilometres travelled on the journey; and (d) the purpose of the trip. The record must be made at the end of the trip or as soon as possible afterwards. Where two or more business journeys are made consecutively during the one day, only one log book entry for that day is required. Where the log book was unreliable and did not appear to have been completed progressively or after each trip, or with sufficient description, it could not be accepted as an accurate record of business kilometres (*Latif* 2008 ATC ¶10-039).

In addition, the log book must contain the following information: (a) when the 12-week period began and ended; (b) odometer readings at the beginning and end of the period; (c) total number of kilometres travelled during the period; (d) total number of business kilometres travelled during the period on trips recorded in the log book; and (e) percentage of business kilometres to total kilometres.

Once the extent of business use of the vehicle during the 12-week period has been established, the taxpayer can make a reasonable estimate of the number of business kilometres travelled during the income year. This estimate must take into account all relevant matters including the log book, odometer or other records, any variation in the pattern of use of the car (eg for holiday or seasonal factors) and any changes in the number of cars used for income-producing purposes during the year. The proportion of the estimated number of business kilometres to the total number of kilometres travelled while it was owned or leased during the income year is then applied to the substantiated car expenses to calculate the amount of deductible car expenses.

Essentially, a new log book will not have to be kept until five years have passed, unless specific rules require a log book to be kept earlier. For example, if a log book was kept in 2009/10, a new log book will generally not be required to be kept until 2014/15. In the four years following the first year, the log book is relevant for determining the reasonable estimate of business kilometres travelled during the income year. Log books do not have to be kept in those years, but the taxpayer must keep odometer records (¶16-360) to establish total kilometres travelled in the car during each year, as well as record the estimate of business kilometres and the business use percentage for the year.

Having kept the log book for one income year, the taxpayer is not required to keep one for the next four income years unless:

- the Commissioner sends the taxpayer a notice before the income year directing the taxpayer to keep a log book for that year, or
- during the income year, the taxpayer gets one or more additional cars for which the taxpayer wants to use the log book method in that year.

A taxpayer may choose to keep a log book in an income year, even in the absence of a requirement to do so (eg to establish higher business usage). If the car is replaced with another, the taxpayer is treated as having continuously held the one car, even though there may be a period when the taxpayer held both

cars or neither car, and the business use percentage established by the log book may be relied on for the replacement car. The taxpayer must nominate in writing the replacement car and specify the date from which the replacement is to take effect. The nomination document is subject to the same retention period as the log book for the original car.

Where a car is held for less than 12 weeks, a log book must be kept for the entire period for which the taxpayer held the car.

There is no discretion in the Commissioner to disregard a failure to comply with the log book or odometer requirements, other than the retention requirements. However, the Commissioner has a discretion to disregard a failure to comply with the substantiation rules that apply to written evidence. Special rules apply if a log book or odometer records are lost. See further ¶16-340.

[FITR ¶70-090ff, ¶70-109ff, ¶70-149ff]

[¶16-460] LIMIT ON SELF-EDUCATION EXPENSES DEDUCTION

Last reviewed: 31 March 2010

The amount deductible for self-education expenses under ITAA97 s 8-1 cannot be greater than the excess of the net amount of "expenses of self-education" (see below) over $250 (ITAA36 s 82A; for minor technical amendments, see ¶41-050).

In calculating the deduction limit (ie the net amount of expenses of self-education *minus* $250), expenses of self-education are not restricted to amounts that are deductible under s 8-1 but do not include depreciation (*Taxation Ruling*TR 98/9). Furthermore, deductions for expenses that do not come within the definition of "expenses of self-education" are not affected by the limit (eg for the costs of short-term refresher courses); nor are deductions under other specific deduction provisions (eg for computer repairs).

Example

> Karen incurs the following expenses in relation to a course of study: tuition fees ($4,000), car travel between home and college ($500), child care fees ($500) and computer repairs ($300). Depreciation of her computer amounts to $300. The "expenses of self-education" comprise tuition fees, travel, child care, and computer repairs (totalling $5,300).
>
> The effect of the $250 rule is that the maximum amount allowable under s 8-1 is $5,050 (ie $5,300 − $250). However, Karen's claim under s 8-1 is only $4,000 (because the repairs, car travel and depreciation are deductible under specific provisions and the child minding is not deductible at all). Therefore, the $250 rule does not affect Karen's claim.

Where the first $250 of expenses of self-education is excluded, the taxpayer is not required to substantiate that $250 (*Taxation Determination*TD 93/97).

"Expenses of self-education" is defined, for these purposes, to mean all expenses (other than HELP, Open Learning charges and repayments under the tertiary student financial supplement scheme) necessarily incurred by a taxpayer in connection with a prescribed course of education — ie one provided by a school, college, university or other place of education and undertaken by the taxpayer to gain qualifications for use in the carrying on of a profession, business, trade or in the course of any employment. "Necessarily incurred" means compulsory and unavoidable expenses, as well as those for which a need may be shown (eg fees, fares, books, child care costs, capital cost of equipment), but not those which are merely useful.

A "prescribed course of education" is a full-time or part-time organised course of study provided by an institution or organisation whose primary function is the provision of systematic instruction, training or schooling in a subject, skill or trade (including sport). Such institutions have been held to cover a trade school which provided a course for apprentice butchers who attended three times a week for six weeks in each year (*Case* P95 82 ATC 448), a flying school that provided courses of instruction for commercial pilots (*Case* P17 82 ATC 72), the Law Extension Committee of Sydney University that ran Barristers' Admission Board courses (*Case* T34 86 ATC 296), a correspondence school that provided hotel management courses (*Case* S95 85 ATC 688) and an institution providing speed reading courses (*Taxation Ruling*TR 98/9).

"Course of education" requires an element of continuity and of ongoing instruction and training. Short-term refresher courses, in-service activities or short-term development courses do not qualify (*Taxation Ruling*TR 98/9).

Where a taxpayer is entitled to be reimbursed for education expenses and the reimbursement does not fall into assessable income, it must be subtracted in determining the "net amount of expenses of self-education" before the excess over $250 is calculated.

[FITR ¶32-990; FTR ¶42-790]