

No deduction for meal expenses in excess of overtime meal allowance

The AAT has held that a taxpayer was not eligible to deduct meal expenses in excess of his overtime meal allowance.

Facts

The taxpayer is an employee site surveyor who is employed under an enterprise bargaining agreement ('EBA'), which stipulated certain ordinary hours of work as well as overtime. Under the EBA, he was entitled to a meal allowance when he worked overtime. No meal allowance was paid for overtime on a Saturday or a Sunday.

He was paid an overtime meal allowance 107 times during the income year totalling \$1,608.

Whilst this meal allowance was assessable, the ATO allowed a deduction for the same amount.

However, the taxpayer [claimed a deduction](#) for **\$8,130** for overtime meal expenses incurred on **300 days**.

This amount was based on the breakfasts the taxpayer bought when he was required to start working at 5:30am, breakfasts and lunches on Saturdays and dinners on the way home.

There was little documentary evidence to support the claim, with the taxpayer instead relying on the Commissioner's reasonable daily overtime meal allowance amounts guidelines.

Decision

The AAT rejected the taxpayer's R & D claim for a number of reasons:

- The taxpayer made a claim based on 300 days, however the working day calendar attached to the EBA showed only 215 ordinary working days and no more than 40 Saturdays in which the industry was operating.

- For dinners consumed on the way home after work, these lacked the required connection to his income producing activities. In these circumstances, the meal had to be consumed **whilst**

performing overtime duties, or on a break in the course of performing overtime duties and not after finishing the working day, otherwise the connection between the meal expense and the overtime work will be broken.

- The AAT also held the breakfasts and the Saturday meals were not deductible as they were not 'covered' by the meal allowance.

Furthermore, it was reiterated that *"merely because a taxpayer received a meal overtime allowance did not entitle them to [claim a deduction](#) for a 'reasonable amount' for meals.*

Call [Max Accountants](#) today on **07 5580 4455** and talk to the Gold Coast's Business Tax Experts for [Tax & Property Investment](#) f
or the Gold Coast, servicing Helensvale, Coomera, Pacific Pines and Pimpama

Max Accountants Gold Coast - Rated [4.9 / 5](#) based on [27 reviews](#) | [Review us](#)