

CPA Australia Podcast

Episode 67 - Transcript

- Intro: Hello and welcome to the CPA Australia podcast. Your weekly source for business, leadership, and public practice accounting information.
- Trisha: Hello everyone, and welcome to today's episode of CPA Australia podcast. I'm your host, Trisha Aventurado, and I am the manager of public practice support services here at CPA Australia. In today's session, we have Robert McDowall and Gavan Ord to discuss work-related expenses.
- Trisha: Our first guest, Robert, became a partner in Arabon in 2014 with a bachelor of Commerce from the University of Queensland, and international experience in project and systems accounting. Robert is experienced in working with SMEs, public companies, and not-for-profit organisations. As the only Gen-Y partner in the firm, Robert leads the way in adoption of the latest technology to support his clients and establish Arabon as a firm of the future. He is also an active member of CPA Australia, and currently sits on the Queensland Divisional Council representing members in public practice.
- Trisha: Joining Robert today is Gavan Ord, who is the business policy advisor and manager of business and investment policy for CPA Australia. Within CPA Australia, Gavan has responsibility for the development of policy, research, and advocacy on issues related to business and the economy, including small to medium-sized enterprises, taxation, financial planning, retirement savings, and regulation. During the course of his career, Gavan has established himself as a technical expert and commentator on small business issues and business improvement. Before joining CPA Australia, he held senior roles in policy development, advocacy and international business development, and was a member of various Australian government consultation committees.
- Trisha: Welcome to Gavan and Robert, and thank you for joining us today.
- Robert: Thanks, Trisha.
- Gavan: Thank you, Trisha.
- Trisha: Just to set the scene for our listeners, I thought I'd start off with you, Gavan, to get us a bit of background as to why the Australian Taxation Office have decided to highlight work-related expenses as an issue.

Thanks Trisha, and thank you for the question. I think we have to go back a few months. The Commissioner of Taxation has, on a number of occasions, been speaking on this matter and raising his concerns regarding the over-claiming of work-related expenses. Now, he hasn't just come to that on the top of his mind. That's come from a research project the ATO has done, which is called the Tax Gap Analysis. Now, while we haven't

seen the data yet, but that's due to be released soon, the Commissioner has given a flavour of some of the concerns he's raised. In particular, the analysis, the Tax Gap Analysis, has shown that over-claiming of work-related expenses is greater than the tax gap from the large corporate sector, which is estimated at \$2.5 billion.

Gavan: This incorrect claiming of work-related expenses, according to the Commissioner, is actually worse in agent prepared returns than self-prepared returns. He goes on to talk about the three golden rules about claiming, which I think we'll discuss later in the presentation. And he also says this is undermining, in his view, the profession. Now, we don't necessarily see that, but we are concerned about the claims that our agents may be over-claiming work-related expenses. And we obviously want to see the evidence come through.

Gavan: That's a bit of background. I think the key thing is where, it's a bit ... the tax gap is over \$2.5 billion. That's money that the government is not collecting because of over-claiming of work-related expenses. By over-claiming, I mean the work-related expense is not substantiated, or there's not sufficient nexus between the employment and the earning of the income. This is where we are just talking about individuals who are not in business.

Gavan: That's a bit of background as to where we'll get to. In the coming months, we'll see more information from the ATO about the data around the Tax Gap Analysis.

Trisha: And Gavan, as you know, the recent budget was released. Was there anything in relating to work-related expenses?

Gavan: This sort of goes on for the last question. The Commissioner has been talking about this for a number of months. And obviously, this is fed into the budget. So in the budget, the government committed a \$131 million, over the next four years to improve compliance in education in the work-related expense area. With a particular focus on agents and tax payers as well.

Gavan: In this area, we'll see the ATO not just ... there's more money for the ATO, and the Tax Practitioners Board, around compliance activity, and also prosecutions. We know that's actually at the very top end, those that are the most egregious agents and the most egregious taxpayers.

Gavan: Prosecutions cost a lot of money. They're not going go after everybody. The majority of their focus is going to be on education. So we're going to have to see more tools out there, something updating of guidance on claiming work-related expenses and substantiation. We're also going to see the ATO, they're going to be doing 2000 visits of tax agents. These are not the agents of concern. These are agents who may fall into the agents of concern category.

Gavan: As listeners who are tax agents, you're likely to see – it's possible the ATO might be knocking on your door just for a visit and a chat. These are not compliance ... These are not compliance reviews. These are not audits. This is just a visit. I think that's a positive.

- Gavan: In the end, the objective of the government is these activities, the compliance activities, the education activities, they expect this to raise \$1.1 billion over the next four years.
- Trisha: In a recent CPA Australia webinar on client verification and engagement, there was a question on the traditional \$150 laundry and maintenance claim. Are you able to give us some insight into the ATO's view on these types of expenses.
- Gavan: That is a good question, and this is something that the Commissioner's raised that maybe Robert can add to this, but it seems that from the Commissioner's experience, there is a bit of a tradition that people would just claim the \$150, thinking that the ATO won't check. Now, the Commissioner has stated that there are 6.4 million taxpayers claiming laundry expenses. To claim a laundry expense, basically, you have to have a work uniform. It's very unlikely, and the Commissioner pointed this out, that there are 6.4 million Australians with a work uniform.
- Gavan: There is a lot of over-claiming in this area. As the Commissioner says, by itself it's a small amount, but you add them all up, and you're looking at hundreds of millions of dollars in over-claiming. I don't know if Robert would want to add to that from his own experience.
- Robert: Yeah, I would. It's just not laundry. It's pretty much the whole range of wherever there's exemptions to substantiation. So, \$300 exemptions, there's exemptions for 5000 for motor vehicles. Clearly they're just raising that at the last budget. And more recently is one of the next targets on motor vehicle travels. So, I think with the 5000 kilometres, most tax agents have been pretty good recognising that's over a \$3000 claim. Whereas the laundry \$150 is just a little claim, so obviously, it's not a big issue in the views of some tax agents historically, which is just not having the understanding.
- Robert: So, from what I've found, I think is just broadly make sure tax agents and tax payers, clearly understand what the actual exemptions mean. Read them carefully. I found that even the act in the legislation gives more detail than the tax office websites and guidance. Until you've read that through, you're like "Okay, yeah that clicks. That's right. I can't just go and do this and this and this."
- Robert: I found even amongst our practice, when that first started coming out there and this was really early in the piece, it was over a year ago. The tax office was starting to get this out in the news and the media and the education concept you talked about. And that really the first ... be like, "Okay, that's right. Let's make sure we go review." Another one clearly is mobile phone uses. Use guidance as to what methods you can use to support your claims. And that guidance really should be followed. Because that's what the tax office is looking at.
- Gavan: Yeah. Well, that's exactly right. For some there's...and there's standard. This is just a claim and nobody will look at it. But, we are looking at it.
- Robert: And you do it year after year. And when you look at a tax practice. Okay, sole practitioners, first of all, have to keep track of all the legislation going on. Even when

there's multiple partners and staff and accountants. You know, they get a whole lot hands on training and support and supervision in the early days of their career. And then they're kind of left on their own. Not left on their own, but they have to go through ... You can't really review and supervise every single individual tax return that gets lodged in your practice. It would be very prohibitive. It'd add cost to the clients significantly. So, you can only review the more troublesome ones and where there's contentious issues. Otherwise you spend a lot more time, as a partner, focusing your reviews on. So, we have seen that, through this. And this is even if you're doing regular professional development.

Robert: Obviously, with all the education of the ATO, that forms part of our professional development calendar this year. And we saw accountants that were working., "Okay, yeah. I can see that change. I'll make sure we implement that."

Trisha: You mentioned something that was quite interesting, which was, that it is very difficult sometimes to oversee the professional development of each and every staff member. So, I guess there is that, that onus on accountants as a profession to make sure that they're well versed with what's happening in that space. What do you recommend in terms of keeping up to date in that?

Robert: Look, all the accountants in our practice, we require ... strongly encourage that they all complete their professional studies. They all become CPAs. They all take on that professional responsibility to be responsible for their own professional development, their ongoing continuing professional development. We provide the resources. We provide the training. We provide the time to do so. But ultimately it's their ... each and every accountant's responsibility to make sure they're up to date and current.

Robert: One of the things I've found and I've provided this feedback after our review. Some of the tools the tax office have is way beyond what us as agents have. Yeah, so when we underwent our own review from the ATO, about practice risk profile, they did give us some really good information using their tools. They also gave us an overall practice review and risk score, and they actually gave us individual for all the clients that they considered to be higher risk within our practice. We used that to go and see which accountant did what work over the last three years? And is there anyone that is really jumping out? Thankfully, for our practice, there wasn't. So, I didn't need to go and do that performance metric with anyone. Instead, I could actually say, "Okay cool, this is an issue across the board. Let's make sure we're all up to date on this and this and this."

Gavan: That can be helpful for other practitioners-

Robert: Yeah.

Gavan: Even sole practitioners that can see where they-

Robert: Everyone. They could see their own ... okay I'm just. The high risk is, you know, motor vehicles always claiming maximum motor vehicles. And that could be the thing. "Okay, maybe I'm not reading the substantiation expenses properly, the rules properly." I've

given that feedback to the tax office as well. That I did like that and I'd love to see it as a tool that we can actually get on demand rather than when they choose to do a review. Because for a practice with staff, I can actually then use it as a regular tool. Because it's very hard - we review all of our business financials, all of our super fund financials, but the individual tax returns are just too numerous. As I said, the cost would be too high to the client if we wanted to do that level of a review. If everyone, but if this can help us select a really good sample.

Gavan: That's right. So, it's really helping your risk review-

Robert: Yeah-

Gavan: Like you said, you can't review everything, but now you know which ones to focus more on.

Robert: Absolutely. So it is a good tool, if you see it in a positive light.

Gavan: I've got to say on the technology front is that the ATO, part of the budget is the ATO is given money to... technology is a big part of their solution. So, for people out there who do their own tax return, they know they've got this nudge technology at the moment. So, where they start to over claim on a work-related expense, through My Tax, there's a line saying you are over claiming.

Gavan: Then from 2019, that functionality should be available within the practice management software. So if your staff's doing something, they'll see a little nudge saying, the client ... might be over-claiming compared to be average-

Robert: Potentially over-

Gavan: Potentially. Probably just a prompt to maybe go and check a bit further. Doesn't mean stop making the claim, but maybe it's a prompt-

Robert: That's the prompt to go do more investigation and more level reviews. It's about prompting to say, "Okay, this is a case where I may have to look closer."

Gavan: Right. Well, that technology is 2019. So, not this year, but 2019.

Trisha: So Gavan, I guess it's a nice segue to ask you about, what level are accountants are expected to ensure that their clients are able to claim their work-related expenses? Do accountants need to audit their client? Do they need to cite invoices? And is there anything from the practitioner's perspective that you'd like to also add Robert?

Gavan: So this is a question that often comes up when this issue arises. Members will ask, do they need to audit everything? And the answer is, no. Now, the tax practitioner's board has released an information sheet, TPB17-2013. And in that information sheet, they clearly state, the obligation to take reasonable care does not mean that the care taker needs to be perfect, or the highest level of care possible. It is sufficient that the

registered agent acts in a way that is consistent with how a reasonable person, possessing the required knowledge, skill and experience of a registered agent objectively determine would act in providing a tax agent service or best service.

Gavan: So, it comes down to this reasonable person test, which as you know, it is a common law test. But, what would a reasonable agent do in that situation?

Robert: Practically speaking, and again, there's more information in this information sheet. I start looking at things. Okay, so you have a new client that's high risk to your practice. You should do more investigation. A client you've been seeing for many years, suddenly changes their pattern of what they want to claim. That's another warning bell where you should go look further. As you said, this tool, this nudge tool, if you could get that. That would be another prompter. So all these different things that prompt. Okay, in these circumstances, there's a higher risk. I'll just take the extra care to go look at it. Satisfy myself that the client's doing the correct thing.

Robert: It's not good enough just to say, "Okay, well the client signed off on it so it's the client's responsibility." No, they're engaging a professional. We have a code of conduct we have obligations to the tax practitioner's board as well. That we will take this reasonable care to make sure the client's are ... you know, satisfying the correct terms of the legislation.

Gavan: And there's no definitive answer on when you should go further, but there's ... as Robert just pointed out, there's sort of a test that you look at. You need to exercise your judgment.

Robert: And it's become ... Don't let anyone tell you what best practice is and that best practice is to go and review every single one. Okay, certainly that would make sure you had a very high level of confidence for every single one. But again, that's beyond what's necessary. It will add substantial cost to the preparation. It will drive people away from being able to use a tax agent. Which the tax agents play a very important part in the tax system in Australia.

Gavan: Yes. And I think because one person has said to us repeatedly is, "Do you trust your client?" So, I think that's a test that some people should use, is that a client's sitting there. Do you trust that client to be telling you the right thing. And as you said, obviously that's built up over time.

Robert: In the first year, someone who perhaps just drops something in by mail or over the phone or the internet. There's not going to be a lot of trust there. Once you get to know the client, you get to meet them. Maybe using modern technology, you don't have to do the face to face interview anymore. You can use video conferencing. There's wonderful tools out there to help you with that. But it is still something that over time you develop that trust. It's two ways. They'll develop the trust in you. And you start to trust your client more. You're going to be a better support and back them up.

Robert: A test that I use with my staff is, "Are you able to stand up, hand over heart and represent your client to the tax office? How much trust is there? Are you going to

completely back your client if the tax office is doing a review of their work?" And that's a really good test, I find as to whether you're confident in the care they took.

Gavan: And I might add, is that we've done a few webinars and live chats on this issue. Ian Taylor, the Chair of the Tax Practitioners Board has said quite clearly in both of those webinar and live chat that there's not a requirement to audit every single thing that comes through the door. In those webinars he's given a number of examples as well.

Trisha: I'm curious as to the behaviour, I suppose of, for accountants and how they approach their clients with ... Especially clients who want to claim an expense, but it can't usually be claimed. What tips do you have Robert, for those who've recently started out in practice? How do they have these conversations? From a practitioner's perspective, how do you think they should approach this?

Robert: I actually remember, all our staff at our practice got together to go watch the Ben Affleck movie, *The Accountant*. There's this wonderful scene in there, where he is meeting a client for the first time and I think it's just this public perception of, "Okay, let's up the claim. Let's up the claim." Obviously, it's out there in pop culture, that that's why a tax agent is there, to get the biggest claims for your accounts.

Robert: And you do see that sometimes when clients walk in the door. A new client. They've got this expectation that the only reason they're here is because they know they'll get a bigger claim. And they know they'll fly by the radar of the tax office because they've done the right thing to see an agent. It's not common at all, but it does happen. There is that perception. So, I think really important first of all, knowing the law. Knowing the legislation. Knowing how it's applied. You need to be able to convey that in simple terms. It's no use rattling off legislation. You have to actually make it really clear.

Robert: And so that's why the tax office have three golden rules. They repeat it on the media. They've got it on their website. It's actually a really simple way to break it down to clients. To say, "You have to have incurred the expense. You need it to actually have been for work. You need to have the record to prove it." You need to tick off those three things. And clients once they get that, it's a very simple conversation then to have.

Robert: As I said, for a new client, you might want to cite documentation. Or a client that's changed, so you're ticking off that box there. You go through their work. The tax office has plenty of occupational guides to say, "These are the types of expenses you would typically see in this type of occupation." And you can work through the client with those guides. And then making sure that they actually spent the money. Is your work paying for this? Is this being reimbursed? Was it coming out of your bank account? You just have the conversation with the client. They then understand what's going on.

Robert: I would suggest if any clients... you get that feeling where they're not being honest or forthcoming with you, or straightforward. Do take that chance to look further. Talk to another partner. If you're a sole practitioner, talk to another practitioner. If you're in a practice, talk to one of the partners or senior manager. Because the reality is, if you're

getting that feeling that something might not be right, then you know what? Something probably isn't right.

Gavan: I mean now, we at CPA Australia have tax interview checklists for individuals and one of checks we have in there is if the ATO was to call your employer, would they substantiate your claim? Would they back up your claim?

Robert: And we use that one with the clients all the time. But obviously, small business in Australia is a huge thing. It's one thing to be able to say, you go work for one of the big banks. Will someone there verify it? It's different to say you're working in a small family business where everyone's very close. There will be employees who'll just say, "Yeah of course, I'll verify that." So, while it's a useful analogy or a useful prompter for the client, again, you still have to make sure you're comfortable that what they're claiming does feel legitimate. You investigate further if you've got concerns.

Trisha: Robert, as a CPA in practice, you've been kind enough to share with us your experience with ATO and how they conducted some of these reviews. I was wondering if you could just talk us through the process of this review. Just for some of the accountants and also to share with the tax payers what accountants need to go through on their behalf.

Robert: Okay. This was awhile back now so I will hopefully make sure I recollect it all correctly. In the first instance, the case officer just calls to try to set the first appointment. They call it a visit, but it wasn't actually a visit. It's just over the phone. And they're pretty much just calling up to say, "Okay, I'll give you a brief overview of the process. Explain some of the materials that we're about to send you." And say, "Can we have an appointment about this?"

Robert: The first thing, make sure you actually give yourself one to two weeks. Because what they're going to send you is a risk profile for the practice, but also the clients they want to talk about. Before you talk to them about those clients, you want to go and do all of your own investigation. You want to do your own internal review. Because that next appointment, that first appointment, when you actually have that conversation, they'll start going through everything. They'll start talking about individual client's circumstances. They'll want to know how your practice approaches this. How your practice approaches that. So, just make sure you have a clear understanding, have thought about, what is your process? What is your standard procedures? So that we can have that conversation.

Robert: During that conversation ... Again, they made it clear. "This is just a review of your practice. We're not going to review your clients at this stage. We want to talk to you about your process." They'll also suggest some feedback perhaps. But again, make sure the Tax Practitioner's Guide is there. It's really a very good source for what you should and shouldn't be doing and what is considered good practice.

Robert: From that appointment, they basically let us know, again, they gave us a list of our clients that were going to get reviewed. They picked five of those clients and said, "We want to actually see the working papers for these five clients." So they gave us, I think it

was about one week time frame to get those back. They also gave us notice they would then send a letter out to all of our clients on that list. And those clients would have 21 day I believe, maybe 28 day response time frame. And again, that letter was just a prompter letter. It's not a letter saying, "You're under review." It's just a letter say, "Based on this, it's indicated you may have over claimed." So, they then set a follow up appointment for us to discuss those five individual clients in detail. And then there's another follow up appointment towards the end of that response time frame to see what the outcome was.

Robert: Finally, after a while, so they've had any of the amendments may or may not have been lodged. They'll do a final follow up phone call with us. Just to let us know what the outcome of the process was and what's the next step from there.

Trisha: Observing you, you seem to be cool, calm and collected. But there may be some practitioners out there that might find this process a bit daunting. So I guess, what's your take on the review process? How do you think accountants in practice, whether they have one or many staff, can manage their practice, their employees, their clients and an ATO reviewer throughout the process?

Robert: Yep. Look, it is daunting, because it's someone coming in, looking at everything and you've got everything up here. The tax commission, what they're saying. What the public policies statements are. And then it comes right down to the actual conversation you're having with the case officer. I think the first thing is, take your time. Don't rush into everything. It's very clear. Okay, if I'm going to talk about my client affairs, there's confidentiality matters here. I need time to talk to my clients to confirm that I have permission to share our working papers about their tax returns. Because, the tax office, until they're actually doing a review of the client, they don't necessarily have a right to see all those working papers when they're doing a review of the practice. At least, if it's showing confidential information.

Robert: So, take your time. If you feel uncomfortable, just ask to have a break or have it stop. Go contact CPA. Contact Tax Practitioner's Board. Contact another practitioner. If there's ever anything you're feeling uncomfortable about. To make sure you're in the right position and you're getting the right support that you need.

Robert: In terms of the actual managing the clients, one of the big things we did. So again, we had a seven day time frame before the letters went out to clients. We made sure we spent that seven days calling all our clients. Every single one of them to let them know they'll be getting the letter. What it meant. What steps we're taking as a practice. And then start having that conversation with them. So, by the time they had the letter, we'd already had the conversation, decided what we're going to do. So, nothing came as a surprise to the clients. And I think that actually was a really good outcome for the clients and they saw that we had been very proactive with them.

Robert: The staff, we ... as through the process ... when we actually did identify, potentially that we weren't going to have a correct understanding application of the exemption, for substantiation rules. We made sure we did a professional development session. A training session that very week with the accountants. Made that a big focus. Made sure

that everyone clearly understood what the rules were. So, pretty much, it's a good chance to work with your clients. Work with your staff. Work with the tax office. And give the tax office feedback because it's really important that they're given this feedback. It's all well and good what's happening at the top level. But the case officers need feedback as well, so that they can improve their process.

Robert: Try to take it in as positive a light as you can. To see that this is going to help prevent risk in my practice. It's going to help me improve our understanding and our knowledge. And overall, it's going to be better for the clients. But if at any time you feel like you're under pressure or you feel uncomfortable, you're feeling bullied. Take a step back. Go get some support.

Gavan: I would agree with that. Particularly, you might have the feeling that the ATO reviewer might be saying best practice is to order every document. So, in that situation, here at CPA Australia, we'd like to hear that, because we could also raise that with the ATO. Because, what they tell us is clear, that at the senior level, that is not the instruction they are giving to the officers.

Robert: And I think one of the things that we saw... I sometimes got the sense that there's some prejudged outcomes. You know, the reality, they're working off big data sets. So, working off, here's the averages. And until they've actually had that conversation with their client, you know that one, one and a half hour meeting every single year, for 20 years with a client. Well, you know that client very well and what's going on.

Robert: There's always going to be outliers because an average is just that, it's in the middle. Which also gets me a bit concerned when they talk about the tax agents as being the higher risk in the self-assessors. You know? Being low risk, what pops into my mind is, well, there's a lot of self-assessors who don't actually understand what they're entitled to claim. They could actually be under represented and under claiming. And there is a risk of that because they are entitled to that. So, there's actually potentially a gap at that lower end of people who are paying more tax than they necessarily should. And for those who have the money or the time to spend with accountants and tax agents are getting the benefit of that.

Gavan: And Robby mentioned the prompter campaign. So the ATO are writing to the clients which are claiming above average. There's going to be a broader campaign this year. Writing to tax payers, including tax payers who are clients of agents, stating they may be over-claiming in comparison to the average. So, that could be ... as an agent you could build that into a risk profiling as well.

Gavan: But as Robby said, just because they're over-claiming doesn't mean that's anything wrong with that. Just need to take it into consideration.

Robert: Yeah. It's that chance, that prompt to review the claims. I'm actually going to tick off those three things. Yes, I've got records for everything. Yes, I paid for it. And yes, it is directly, tightly connected to my work. I was required to incur that expense and alter my income.

- Trisha: So Gavan, you talked about how the ATO will be going through a campaign to prompt tax payers in terms of high risk areas. Is there any specific feedback that you'd like to share regarding high risk areas?
- Gavan: So, what the ATO has shared with us, in terms of work-related expenses, there are other high risk areas like rental deductions as well. That's another matter. But in terms of high risk. High risk work-related expenses, D5 which is the other category is higher risk. And that comes into home office, mobile phone, internet. And what they see there is more around the apportionment. Not getting the apportionment right. Not having the appropriate evidence to support the apportionment. Next one is D3 which is clothing and we've discussed that already. Then followed by D1, which is motor vehicles. That is the 5000 kilometre one. And then D2 and D4 are ... after that.
- Gavan: What I am using, kind of technical jargon, which our agents would understand, but not necessarily other listeners. The high risk ones are really around home office, motor vehicle and clothing. And the issues that the ATO sees is around substantiation and a lack of nexus or connection between the employment and the incurring of the expense. And the other issue they see is around apportionment. They have people that bring in private expenses into their tax deduction.
- Robert: I'd be very interested to see, if that little detail is in the data. Because obviously, when you're looking at the broad spectrum, all the tax office receives when you lodge a tax return is the aggregate number on top of that little... there's a few other labels and information to provide. But broadly speaking, D5, they'll just get the number across all of it. So until they've actually done that review, until they've seek to see the working papers behind that and what every individual line is and how things were apportioned, it's very difficult. Again, you're just drawing averages from occupation, income levels, across the broad spectrum of tax payers. And so I'd like to see if the data actually comes to say, a large portion is actually represented by lack of substantiation, lack of documentation. Or, is it that nexus you're talking about? So, hopefully, we'll get that information from the ATO.
- Gavan: So we will see that information hopefully soon, and that information comes out of, they have done a random audit process. So that information came out of the random audit as to what they're seeing the high risk. The random audits ... the difference between ... the over-claiming actually means what they shouldn't have claimed. What they claimed compared to what they shouldn't have claimed. And that audit was subject to ... Each audit was subject to a review of a former member of the Minister of Appeals Tribunal. So they went through a process. So that information comes out of that random audit process. Not the big data. But hopefully, that information will be released soon.
- Trisha: Some of our listeners, as I said earlier, may not be accountants. They might actually be clients who are going to accountants. And I noticed on the ATO website that there is some guidance on work-related expenses. And especially the type of expenses that you can claim. So perhaps, as we said earlier, \$150. You should really look at how much you truly spend on dry cleaning your Armani suit or whatever.

- Trisha: So, I guess my question is around taxpayers, who are self-preparers. What rules should they follow? Are there any tools that are available on any websites that you might recommend for them to have a look at?
- Robert: The ATO website over the last few years. They've developed it a lot with a lot of clear and concise information. As tax agents, we have to look at the legislation. We have to look at the new rulings. The tax office rulings and the decisions that they make. So, all this technical detail, but the tax office takes all of that and summarises it. And it summarises it well. They also provide information sheets and guidance sheets. So, I would say, anyone who is preparing their own work, go look for the occupational guidance that they provide. Hopefully, they're growing that ... every single year, adding more and more onto there.
- Robert: When you're claiming a specific expense, go to the tax office website because we each cover different topics, different claims like mobile phone. They've got good guidance on how you should be apportioning that. How you should be keeping records for that. It is worthwhile going. Don't wait until after the tax year and when you're doing your tax return. Because a lot of this stuff you need to keep records and keep details throughout the year. So, go have a look at it now and start changing the way you keep track of all your records to make sure you can satisfy all those three golden rules that the ATO talks about.
- Gavan: And I might add that for people who are going to see their accountant this year. Their accountant might be asking more questions because of the ATO focus on this issue. So, it's not a personal issue. It's just the ATO is going to be focusing more on this issue. So, they can expect a few more questions. In preparation, you might want to bring more information along.
- Robert: And there's more tools for that now as well. So, the ATO obviously has the My Deductions app that you can use. Some people don't want the government in their pocket the whole time so you can actually get third party applications where you can take pictures of receipts. They can easily store it. There's ones where you can actually send it directly to your accountant as well.
- Robert: So, talk to your accountant. See if they have any tools or any recommendations because electronic records - provided it's legible - is still admissible. So, it's a very good process and the tools are there now that you could actually keep track of all of your records throughout the year. Very easy. Just take a picture on your phone. It stores in the right spot. Come to the accountant. You can just give him everything. And then you get away from this whole, "Do I have to do it? Don't I have to?" Because it's just there. If the tool's there to make it easy and ensure it's not time consuming, you should try to take advantage of that.
- Trisha: Throughout this episode, we've been talking about I guess, pre-emptive or proactive tips. I wanted to also ask about, if an accountant was to find that their client had no receipt for a work-related expense, what are your suggestions for at that particular practitioner? And having that conversation with their client?

Robert: Importantly, it comes down to there are tax regulations and rules that you need to be able to substantiate expenses. If you can't substantiate them, there are some exemptions as we've talked about across this conversation. But if you can't rely on one of those exemptions, there may be a point where you say, you cannot actually claim this.

Robert: Now, that can be really significant for some clients. They might have spent \$2000 on a flight for a business trip they made. They may have spent \$1000 on a new computer that you're using predominantly for work purposes. So, what you can also support them with is how can you reconstruct those records. A lot of the big ... if they've got their bank statement that shows the date of purchase, you might actually be able to go and get that receipt. You might be able to go to whoever the supplier was, the airline or whatever, and find those receipts for them. And support them through that because you're forgoing that large deduction. It might take off the first two rules and then you miss that bit about having the records. You can go that extra step to help make sure you get those records.

Trisha: So, I wanted to also talk about an ATO podcast which had Commissioner Chris Jordon who basically spoke about an example of some person claiming a business ... Sorry, a self-education expense that was done overseas. Basically, when they investigated this matter, they found that the immigration records had shown that they had not left the country. Gavan, I'm curious about the ATO's realm of being able to find these details to substantiate some of these expenses.

Gavan: So, that's an excellent question. Because really, as a tax payer you have to assume that the ATO can get access to data. Access to data of all different sort ... sources. So you mentioned the immigration department. They can go into the land titles office. This year, I think in the tax returns, if you sold a property during the year, there's a prompt to say that the property has been sold this year. Motor vehicle registration. Insurance. Insurers are a good way to get data because you might declare a small amount of income, but you have a very expensive boat. You insure the boat.

Gavan: I think you have to assume the ATO can get access to this data. There's all sorts of ways to do this. The Commissioner and others like to point out specific examples ... they are some of the most extreme, the most egregious. And we as a body really do want the ATO to go after those people because they're making it difficult for legitimate tax payers. So, we encourage the ATO and are very supportive of the government for providing more money for prosecution in this area. Of course, we do want those sort of behaviours stamped out. Because we want to make it an area where you can feel confident that what your claiming is going to get through. Not claiming correctly, you will be caught.

Robert: Yeah, to add to that. From experience, the Tax Office has a very broad remit as to where they can get information from. One classic example we've seen in cases is tolls. They know when people are using work-related vehicles for private trips up to the beach on the weekend because of the toll records. It's just an example. They can get the information there. They can find the information. Again, with government, what I don't

want to see is this case where, "Okay, we're just going to clamp down on this for everyone" because a few outliers, who are really causing the trouble.

Robert: Education is great. Trying to raise the bar for everyone. Trying to make sure everyone is doing the correct thing is good. But I don't want it to get to the point where they say, "This is too difficult to enforce. We'll just scrap it all together. We'll just take the ability out." I feel we've got a genuinely fair tax system in Australia in the way people can claim things. Because if you look at some of the other countries overseas, self-assessment is disappearing. It's not happening. The Tax Office just says, "Here's your income. We'll just tax you on that." And that would change the whole dynamics between employees and employers in Australia, who's paying for what.

Gavan: I would also just add that...I'll just give you Australian specific examples, but ATO, through information sharing can and does get access to data that other tax offices, other revenue authorities do collect overseas as well. Don't just assume because it happens overseas, that the ATO doesn't know what's going on either as well.

Trisha: I guess generally, in addition to WREs, what do you think might be areas of concern for the ATO?

Gavan: So, we made it clear that rental deductions are also an issue of concern. And we know the last few years the ATO has cracked down. Not the ATO, the government has passed laws to cut back on some rental deductions. Like travel to the property. And also changes around how you can claim depreciation. We know that rental deductions are a concern. The number is smaller than work-related expenses, but the quantum of the claims is much higher. So, we'd like to see more activity in this area. We know the ATO has a large focus on the large corporate space. All these increased powers like the multinational anti-avoidance laws. Obviously, at that larger space, we're going to see a lot more activity via the ATO ... And we'll also see the ATO do a lot more around R&D Tax claims. There's been some very questionable claims in this space. And in the budget, there is a number of announcements around improving the integrity of the R&D Tax claim area.

Robert: One of the things that I'm seeing right now is ... Obviously, there is a big focus on individuals. It's about the deductions, as what they claim as deductions. From an income point of view, you know the Tax Office generally has pretty good sources. They get information from the banks. From share registries. From state titles offices. So they're getting most of the income information. Where they're missing that income information is the black economy. Where there's cash payments being made. You know, clearly lately in the news, there's been a lot of talk about the hospitality industry and underpaying workers. And all those workers that are getting paid in cash. They're going to be cracking down on those businesses. Fair Work is going to be cracking down on those businesses. Making sure people are getting paid.

Robert: But obviously, the flip side of what is going to happen is there will be people who may not be reporting their income correctly. And so, you're going to see both employees and businesses having to report large amounts of income where previously they might have

been receiving cash in hand. So definitely, I imagine that income side of the individual would definitely come to focus with this black economy task force.

Trisha: So, I guess this ... it's getting closer to the end. So, I guess for our listeners, Robert: is there any key take aways that you'd like to close off on?

Robert: Yes. As I said, the tax office's website is an excellent resource. There's a lot of tools available there. And it's not just all in writing either. They've got the podcast. They've got the videos. So no matter whether you want to watch or listen to it, or read it, they do have tools there. Beyond the tax office, there's groups like the tax payers alliance provide information. Obviously, the professional accounting bodies provide information. So there is a lot of information out there.

Robert: And when you are actually using the tax preparation software - if you are doing it yourself or using an accountant - within that software there's a lot of prompters and a lot of guides that will take you to more information. I think just take advantage of the information there. If you don't know, just go see a tax agent and talk it through them because your tax agent will generally be really across all of this.

Gavan: I would add that we mention the three golden rules. Just to reemphasise. Three golden rules. You must have spent the money and not been reimbursed by your employer. The expense must relate to your work and not be a private expense. And you must be able to prove your expenditure, if asked. So, I think just keep those three golden rules ... As Robert said, they're very very simple and easy to understand. If you look at that, you should be okay.

Robert: Agreed.

Trisha: Well, thank you very much to Robert and Gavan for your valuable insights today. If you'd like to download the transcript of this podcast or access further resources, go to www.cpaaustralia.com.au/podcast. Thanks for listening.

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