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## Exempt car and residual benefits: compliance approach to determining private use of vehicles

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### Relying on this draft Guideline

This Practical Compliance Guideline is a draft for consultation purposes only. When the final Guideline issues, it will have the following preamble:

*This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow this guideline in good faith, the Commissioner will administer the law in accordance with this approach.*

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### What this draft Guideline is about

1. Generally, a fringe benefit arises where an employer makes a vehicle they hold available for the private use of its employee. However, under subsections 8(2) and 47(6) of the *Fringe Benefits Tax Assessment Act 1986*<sup>1</sup> (the car-related exemptions), a fringe benefit is an exempt benefit where the private use of eligible vehicles by current employees during an FBT year is limited to work-related travel, and other private use that is 'minor, infrequent and irregular'.

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<sup>1</sup> All references are to this Act.

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2. Feedback and experience has shown inconsistency as to methods used by employers to ensure compliance with the car-related exemptions leading to additional compliance costs especially when the private travel is relatively low. To reduce these compliance costs and provide certainty, this draft Guideline explains when the Commissioner will not apply compliance resources to determine if private use of the vehicle was limited for the purposes of the car-related exemptions.

3. 'Work-related travel' is defined in subsection 136(1) to include travel by an employee between his or her place of residence and place of employment or other place at which employment duties are performed.<sup>2</sup>

### Date of effect

4. When finalised, this draft Guideline will apply to car and residual benefits provided in the 2018 FBT year and later years.

### Application

5. You may choose to rely on this draft Guideline if:

- (a) you provide an *eligible vehicle*<sup>3</sup> to a current employee
- (b) the vehicle is provided to the employee to perform their work duties<sup>4</sup>
- (c) you take all reasonable steps to limit private use of the vehicle and have measures in place to monitor such use<sup>5</sup>
- (d) the vehicle has no non-business accessories<sup>6</sup>
- (e) the vehicle had a GST-inclusive value less than the luxury car tax threshold<sup>7</sup> at the time the vehicle was acquired
- (f) the vehicle is not provided as part of a salary packaging arrangement<sup>8</sup> and the employee cannot elect to receive additional remuneration in lieu of the use of the vehicle, and
- (g) your employee uses the vehicle to travel
  - i. between their home and their place of work and any diversion adds no more than two kilometres to the ordinary length of that trip
  - ii. no more than 750 kilometres in total for each FBT year for multiple journeys taken for a wholly private purpose, and
  - iii. no single, return journey for a wholly private purpose exceeds 200 kilometres.

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<sup>2</sup> Travel undertaken by an employee with a passenger would result in private use of the vehicle and the travel not being 'work-related travel' for the purposes of subsection 136(1). Refer to ATO Interpretative Decision ATO ID 2012/97 *Fringe benefits tax - exempt car benefits: private use*.

<sup>3</sup> Refer to [Eligible vehicles](#).

<sup>4</sup> For example, a utility truck provided to a delivery driver, a panel van to a tradesperson or a taxi to a taxi driver.

<sup>5</sup> What constitutes reasonable steps would depend on the circumstances of a business, but may include a monitored policy on private use of vehicles. Monitoring may take the form of checks of odometer readings to compare business kilometres and home to work kilometres travelled by the employee against the total kilometres travelled. For an illustration of such monitoring, see example 1.

<sup>6</sup> Non-business safety accessories, such as a child safety seat will not cause the vehicle to fall outside of this draft Guideline.

<sup>7</sup> For more information on the luxury car tax threshold, refer to [Luxury car tax rate and thresholds](#).

<sup>8</sup> As defined in subsection 136(1).

## **The ATO's compliance approach**

6. You do not need to rely on this draft Guideline, but if you do:
  - (a) you do not need to keep records about your employee's use of the vehicle that demonstrate that the private use of the vehicle is 'minor, infrequent and irregular'<sup>9</sup>, and
  - (b) the Commissioner will not devote compliance resources to review that you can access the car-related exemptions for that employee.
7. You will need to check that you continue to meet the requirements in paragraph 5 of this draft Guideline in each year you provide the vehicle and wish to rely on this draft Guideline.

### ***Example 1 – incidental and wholly private travel***

8. An employer provides an employee with a new panel van designed to carry a load of less than one tonne. The van is not provided as part of a salary packaging arrangement, is fitted with business accessories and was acquired for a value below the applicable luxury car tax threshold.
9. The van is an eligible vehicle. The van is garaged at the employee's home and the employee uses the van to travel between their home and their place of employment. The employer advises the employee that private use of the vehicle should be limited and conducts checks to monitor the kilometres travelled.
10. The employee usually stops at the newsagent to pick up a newspaper on their way to work. The diversion adds less than two kilometres to the total journey from home to work.
11. On 10 occasions during the FBT year, the employee has also transported their niece to school in the van during the employee's journey from home to work. The journeys from home to work generally do not exceed 20 kilometres.

12. The employer takes an odometer reading at the end of the 2018 FBT year. The employer notes that the total business kilometres the employee claims to have travelled, based on the distance between the employee's home and work is 30,000 kilometres. The odometer reading is 30,250.
13. The employer is able to rely on this draft Guideline as the requirements in paragraph 5 of this draft Guideline are met:
  - the diversion to stop at the newsagent adds less than two kilometres to the total home to work travel, and
  - the journeys transporting the employee's niece to school are infrequent and irregular and do not exceed 750 kilometres for the year (as evidenced by the odometer reading).

### ***Example 2 – not a diversion***

14. Assume the same facts as in Example 1. However, the odometer reading is 31,500 at the end of the 2018 FBT year. During the football season the employee attends weekly football training after work. The diversion adds more than two kilometres to the total journey from work to home.

<sup>9</sup> Other than records which satisfy the requirements in subparagraphs 5(c) and 5(g) of this draft Guideline.

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15. The employee's travel from work to football training is not considered to be a diversion, as the primary purpose of the journey was for the employee to travel to football training, not from work to home and exceeded two kilometres in distance.

16. Additionally, leaving aside the incidental diversion to collect the newspaper each morning, the employee has undertaken private travel in excess of 750 kilometres during the year (as evidenced by the odometer reading). Therefore, the requirements in paragraph 5 of this draft Guideline are not met and the employer will not be able to rely on this draft Guideline.

17. Accordingly, the employer will need to rely on the relevant provisions of the fringe benefits tax law to determine if it can access the car-related exemptions.

#### ***Example 3 – wholly private travel***

18. An employer provides a car benefit to an employee. The vehicle is a panel van designed to carry a load of less than one tonne. The employee uses the van to transport goods in their role as a courier driver. The van is garaged at the employee's home and is equipped with standard business accessories. The van was acquired for a value below the applicable luxury car tax threshold and is not provided under a salary packaging arrangement.

19. The employee travelled a total of 20,000 kilometres in the 2018 FBT year. The employee's private use of the van during the year was limited to:

- taking domestic rubbish to the tip (100 kilometres return trip), and
- moving residences and travel from home to the new residence three times (200 kilometres travelled in total).

20. The employee confirms to the employer that no single return journey for a private purpose exceeded 200 kilometres.

21. As the private kilometres travelled by the employee in the van in the 2018 FBT year amounted to 300 kilometres in total, the employer is able to rely on this draft Guideline.

#### ***Example 4 – not minor***

22. Assume the 300 kilometres travelled in Example 3 was within a single (return) trip. As each return trip must be less than 200 kilometres, the single trip would not fall within this draft Guideline.

23. Accordingly, the employer will need to rely on the relevant provisions of the fringe benefits tax law to determine if it can access the car-related exemptions.

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**Commissioner of Taxation**

18 December 2017

## **Your comments**

24. You are invited to comment on this draft Practical Compliance Guideline including the proposed date of effect. Please forward your comments to the contact officer by the due date.

25. A compendium of comments is prepared for the consideration of the relevant Public Advice and Guidance Panel or relevant tax officers. An edited version (names and identifying information removed) of the compendium of comments will also be prepared to:

- provide responses to persons providing comments; and
- be published on the ATO website at [www.ato.gov.au](http://www.ato.gov.au).

Please advise if you do not want your comments included in the edited version of the compendium.

**Due date:** **9 February 2018**

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## **References**

ATOlaw topic(s)	Fringe benefits tax ~~ Exempt benefits ~~ Exempt car benefits ~~ Exempt application or availability
Legislative references	FBTAA 1986 FBTAA 1986 8(2) FBTAA 1986 47(6) FBTAA 1986 136(1)
Case references	
Other references	<a href="#">Fringe Benefits Tax - Exempt Motor Vehicles</a> <a href="#">Luxury car tax rate and thresholds</a> ATO ID 2012/97
ATO references	1-B61XN2G
BSL	PGH

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