



Class Ruling

Fringe benefits tax: employers who use the TomTom Telematics system for car log book and odometer records

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① This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:

- section 10A of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
- section 10B of the FBTAA
- section 162C of the FBTAA
- subsection 162H(1) of the FBTAA, and
- subsection 136(1) of the FBTAA.

All references in this Ruling are to the FBTAA unless otherwise stated.

Class of entities

3. The class of entities to which this Ruling applies is those employers who use the TomTom Sales BV (TomTom) telematics system for car log book record and odometer record keeping requirements.

Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 8 to 21 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

Date of effect

7. This Ruling applies from 1 April 2014. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

8. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them form part of and are to be read with the description:

- the application for Class Ruling dated 26 March 2014.
- email from TomTom dated 16 June 2014 and records of telephone conversations with TomTom between 20 May 2014 and 4 June 2014.

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

9. TomTom has developed a fleet management system (TomTom system) which records for each and every car journey:

- the date of the journey
- the time the journey starts and finishes
- the number of kilometres travelled, and
- the purpose of the journey as input by the driver.

10. The TomTom system uses a telematics device in combination with web based software (TomTom software). The telematics device has two components which are connected via Bluetooth:

- a box hardwired to the ignition of the car, and
- a driver terminal with display screen which allows for driver input, typically located in the vicinity of the dashboard of the car.

11. The telematics device:

- detects the turning on and off of the ignition of the car
- uses a GPS receiver to record and calculate data from the GPS satellite, and
- communicates with the server (which runs the TomTom software) via the mobile network by SIM card and GSM antenna.

12. At the installation of the TomTom system the car's current odometer reading is input into the telematics device.

13. The TomTom system will make a record of a journey when the following happens:

- ignition of the car is turned on. and
- minimum movement of 50 metres, set as default (which can be reduced down to 1 metre), and
- ignition of the car is turned off.

14. At the start of a journey the following information is collected:

- employee ID- employee ID is input into the driver terminal or on a remote control connected to the telematics device via Bluetooth by the driver
- type of journey- the driver is prompted to choose the purpose of the journal as business or private on the driver terminal
- time/date- time and date are collected from the GPS satellite and returned to the telematics device at the time the ignition is turned on

- location- location is captured from the GPS satellite and returned to the telematics device when the ignition is turned on. This includes longitude and latitude
- odometer reading- the starting odometer reading of the first journey after the TomTom system is installed is the reading inputted from the car's odometer. The starting odometer reading for subsequent journeys corresponds to the odometer reading recorded in the telematics device when the ignition was last turned off, or is the odometer reading manually inputted.

15. At the end of each car journey the following information is collected:

- time/date- time and date are collected from the GPS satellite and returned to the telematics device at the time the ignition is turned off
- location- GPS satellite information is captured and returned to the telematics device when the ignition is turned off. This includes longitude and latitude
- odometer reading- the odometer reading is calculated by the telematics device which measures distance according to changes in GPS location between the location where the ignition was turned on and where it was turned off, or alternatively it is the manually input odometer reading
- distance travelled – the telematics device calculates the distance travelled.

16. All information on any journeys undertaken by a car will be sent via the mobile network to be stored on a central server. Should the mobile network not be available, all data is stored on the telematics device until such time as the network becomes available again. All information sent via the mobile network will be encrypted to ensure secure transmission and will be backed up to ensure safety of the information in the event of a disaster. All users have an individual user name and a password for access to the TomTom software (which is accessible through internet enabled devices such as a smartphone, a tablet, or a desktop or laptop computer).

17. The odometer reading recorded in the TomTom system may be manually changed should it be necessary. The change is made through the driver terminal or through accessing the records in the TomTom software. Should it be necessary, the purpose of a journey may be changed (between business and private) through the driver terminal or through the TomTom software. In order for users to provide details in relation to a business journey they access the TomTom software and add comments relating to the business journey. Users can also add a reason for changes made in the TomTom software.

18. An employer is able to use the TomTom system to produce, in English, a TomTom system FBT Logbook Report (TomTom Logbook Report) for any selected period, including a 12 week continuous period where required, for each car that has the system fitted.

19. The TomTom Logbook Report will provide the following information as an overview

- the time period for the Logbook Report
- the vehicle identification name
- vehicle licence plate details
- vehicle type
- vehicle VIN number
- vehicle registration date
- number of journey types during the time period (business or private)
- kilometres travelled for each journey type
- number of odometer corrections made
- a history of any logbook corrections made.

20. The TomTom Logbook Report will provide the following information for each journey:

- the time and date the journey starts
- the location where the journey starts (including latitude and longitude)
- the odometer reading where the journey starts
- the time and date the journey ends
- the location where the journey ends (including latitude and longitude)
- the odometer reading where the journey ends
- the distance travelled for the journey
- the purpose of the journey as private or business. The report will also show any further comments which have been added in relation to the purpose of the journey
- the employee ID of the driver.

21. When using the TomTom system for FBT car log book and odometer records the employer must:

- a) in a log book year of tax, choose a 12 week continuous period for the TomTom Logbook Report, and

- b) verify the odometer reading calculated by the TomTom system. To verify the TomTom system odometer reading the employer checks the TomTom system odometer reading against the car's odometer reading, at the relevant times, including:
- at the start of and at the end of the 12 week continuous period, and
 - at the start of and at the end of the tax year or holding period.

When the TomTom system odometer reading is different to the car's odometer reading the user inputs the car's odometer reading into the TomTom system in replacement of the TomTom system calculated odometer reading resulting in the car's odometer reading being used in the TomTom Logbook Report.

Ruling

22. The TomTom system taken together with the TomTom Logbook Report is a document that satisfies the definition of 'log book records' in subsection 136(1).

23. The TomTom system taken together with the TomTom Logbook Report is a document that satisfies the definition of 'odometer records' in subsection 136(1).

24. An employer, in a log book year of tax, who uses the TomTom system continuously:

- for the duration of the 'applicable log book period' as that term is defined in subsection 162H(1), and
- for the whole of the 'holding period' as that term is defined in subsection 162C,

meets the requirements in section 10A and is entitled to claim a reduction of operating costs of a car on account of business journeys undertaken in the car during the holding period, provided the employer:

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and at the end of the applicable log book period, and in the event that the odometer readings are different, the car's odometer reading is used, and
- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and at the end of the holding period, and in the event the odometer readings are different, the car's odometer reading is used, and

- separately works out the business use percentage from the calculations by the TomTom system of the number of business kilometres and the total number of kilometres travelled in the holding period.

25. An employer, in a log book year of tax, who:

- uses the TomTom system for the duration of the 'applicable log book period' as that term is defined in subsection 162H(1), but
- does not use the TomTom system continuously for the whole of the 'holding period' as that term is defined in subsection 162C,

meets the requirements in section 10A and will be entitled to claim entitled to claim a reduction of operating costs of a car on account of business journeys undertaken in the car during the holding period, provided the employer:

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and the end of the applicable log book period, and in the event that the odometer readings are different, the car's odometer reading is used, and
- separately records the odometer readings for the beginning and end of the period of the year for which the car was held, and
- separately estimates the number of business kilometres travelled by the car during the period of the year for which the car was held using all relevant matters including the TomTom Logbook Report, odometer records and any variations in the pattern of use of the car, and
- separately specifies the business use percentage for the period of the year for which the car was held using the estimated number of business kilometres and the odometer readings for the beginning and end of the holding period.

26. An employer, in a non-log book year of tax, who uses the TomTom system continuously for the whole of the 'holding period', as that term is defined in subsection 162C, meets the requirements in section 10B and is entitled to claim a reduction of operating costs of a car on account of business journeys undertaken in the car during the holding period, provided the employer:

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and at the end of the holding period, and in the event that the odometer readings are different, the car's odometer reading is used, and

- separately works out the business use percentage from the calculations by the TomTom system of the number of business kilometres and the total number of kilometres travelled in the holding period.

27. An employer, in a non-log book year of tax, who does not use the TomTom system in that year of tax or does not use it for the whole of the period that the car is held, but has used the system in one of the previous four FBT years meets the requirements in section 10B and will be entitled to claim a reduction of operating costs of the car on account of business journeys undertaken in the car during the holding period, provided the employer:

- separately records the odometer readings for the beginning and end of the period of the year for which the car was held, and
- separately estimates the number of business kilometres travelled by the car during the period of the year for which the car was held using all relevant matters including the TomTom Logbook Report, odometer records and any variations in the pattern of use of the car, and
- separately specifies the business use percentage for the period of the year for which the car was held using the estimated number of business kilometres and the odometer readings for the beginning and end of the holding period.

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

What is the operating cost method for the purposes of the FBTA?

28. Section 10 allows employers to elect to calculate the taxable value of a car fringe benefit using the cost basis (operating cost method).

29. The taxable value of the car fringe benefit using the operating cost method is calculated according to the following formula in subsection 10(2):

$$(C \times (100\% - BP)) - R$$

where:

C is the operating cost of the car during the holding period;

BP is either:

- (i) nil if, under sections 10A or 10B, the employer is not entitled to a reduction in the operating cost of the car on account of business journeys undertaken in the car during the holding period; or
- (ii) the business use percentage applicable to the car for the holding period; and

R is the amount (if any) of the recipient's payment.

30. Therefore, employers intending to claim a reduction in the operating cost of a car, on account of business journeys undertaken during the holding period, must meet the requirements of either section 10A (if the year is a log book year of tax) or section 10B (if the year is a non-log book year of tax).

31. Subsection 162G(1) sets out various circumstances under which a particular year can be treated as a 'log book year of tax' for the purposes of the application of section 10. Subsection 162G(1) states:

SECTION 162G LOG BOOK YEAR OF TAX

162G(1) [Conditions] For the purposes of the application of section 10 in relation to a car fringe benefit in relation to an employer in relation to a particular car while it was held by a particular person (in this subsection called the '**provider**') during a particular period (in this subsection called the '**holding period**') in a year of tax (in this subsection called the '**current year of tax**'), the current year of tax is a log book year of tax of the employer in relation to the car if, and only if:

- (a) none of the previous 4 years was a log book year of tax of the employer in relation to the car;

Note: This paragraph will apply if it is the first year that the employer uses the cost basis method.

- (b) the employer elects that the current year of tax be treated as a logbook year of tax of the employer in relation to the car; or
- (c)-(g) (Omitted by No 145 of 1995)
- (h) the Commissioner causes a notice in writing to be served on the employer before the commencement of the current year of tax requiring the employer to treat the current year of tax as a logbook year of tax of the employer in relation to the car.

32. In considering these conditions, a year will be a log book year of tax under either:

- a) paragraph 162G(1)(a) if a log book has not been kept for the particular car in the previous four years, or
- b) paragraph 162G(1)(b) if the employer chooses to use the TomTom System and elects to treat the year as a log book year of tax.

33. The subsequent four FBT years will be a non-log book year of tax if an election is not made to treat the year as a log book year of tax.

Does the TomTom system meet the requirements of section 10A in a log book year of tax?

34. Section 10A states:

SECTION 10A

10A NO REDUCTION OF OPERATING COST IN A LOG BOOK YEAR OF TAX UNLESS LOG BOOK RECORDS AND ODOMETER RECORDS ARE MAINTAINED

Where one or more car fringe benefits in relation to an employer in relation to a year of tax relate to a car while it was held by a particular person (in this section called the '**provider**') during a particular period (in this section called the '**holding period**') in a year of tax that is a log book year of tax of the employer in relation to the car, the employer is entitled to a reduction in the operating cost of the car on account of business journeys undertaken in the car during the holding period if, and only if:

- (a) log book records and odometer records are maintained by or on behalf of the provider for an applicable log book period in relation to the car; and
- (b) odometer records are maintained by or on behalf of the provider for the holding period; and
- (c) ...
- (d) the employer specifies the employer's estimate of the number of business kilometres travelled by the car during the holding period; and

- (e) the employer specifies a percentage as the business use percentage applicable to the car in relation to the provider for the holding period.
35. Therefore, section 10A requires that in a log book year of tax:
- (a) Log book records are maintained for an applicable log book period;
 - (b) odometer records are maintained for an applicable log book period;
 - (c) odometer records are maintained for the period of the year in which the car was held (the holding period);
 - (d) the employer estimates the number of business kilometres travelled during the holding period;
 - (e) the employer specifies the business use percentage for the holding period.

(a) Does the TomTom system provide 'log book records' for the 'applicable log book period'?

36. Subsection 136(1) of the FBTA defines 'log book records' as:

log book records, in relation to a car held by a person (in this definition called the ***holder***), in relation to a period, means a daily log book or similar document in which, in respect of each business journey:

- (a) that is undertaken in the car during the period; and
- (b) that the holder, or a person acting on behalf of the holder, chooses to record in the document for the purpose of demonstrating the pattern of use of the car during the period;

an entry setting out particulars of:

- (c) the date on which the journey began and the date on which it ended; and
- (d) the respective odometer readings of the car at the beginning and end of the journey; and
- (e) the number of kilometres travelled by the car in the course of the journey; and
- (f) the purpose or purposes of the journey;
- (g) (Omitted by No 145 of 1995)
- (h) (Omitted by No 145 of 1995)
- (i) (Omitted by No 145 of 1995)

is made in the English language at, or as soon as reasonably practicable after, the end of the journey.

37. Paragraph (c) of the definition of 'log book records' in subsection 136(1) requires each entry to detail the dates on which the business journeys began and ended. This requirement is met as the TomTom system records provide details of the date on which each and every journey began and ended.

38. Paragraph (d) of the definition of 'log book records' requires that the respective odometer readings of the car at the beginning and at the end of each business journey be entered into the relevant records.

39. The term 'odometer' is not defined in either the FBTAA or the *Income Tax Assessment Act 1997* but the *Macquarie Dictionary*, online edition, defines that term as being 'an instrument for measuring distance passed over, as by a motor vehicle'.

40. However, the definition of 'odometer records' in subsection 136(1) makes reference to 'odometer readings of the car'. In this regard, it is concluded that, whilst odometer readings must pertain to the car, it does not necessarily mean that they must also be attributable either wholly or in part to the rotation of the car's wheels, thereby mechanically moving the standard odometer fitted in the car by the manufacturer.

41. Provided the device used to determine the car's odometer readings is of sufficient integrity it can be accepted that a system other than the car's own odometer may meet the FBTAA legislative requirements. It is accepted that the opening and closing odometer readings calculated by the TomTom system are of sufficient integrity to be the 'odometer readings of the car'.

42. Each time the car is driven, the start and end odometer readings for each and every journey are calculated by the TomTom system from the GPS and other telemetry data recorded, other than where the driver has input the car odometer reading.

43. Therefore, the opening and closing odometer readings for each journey determined by the TomTom system satisfies the requirements of paragraph (d) of the definition of 'log book records' for an odometer reading of the car at the commencement and at the end of the journey.

44. Paragraph (e) of the definition of 'log book records' requires the number of kilometres travelled by the car in the course of each business journey to be shown. This requirement is met as the TomTom system determines the number of kilometres travelled during each and every journey.

45. Paragraph (f) of the definition of 'log book records' in subsection 136(1) requires the purpose or purposes of the business journey to be recorded. This requirement is met as the driver records the purpose of the journey, including business journeys, on the driver terminal at the start of each journey or else records or changes, as required, the purpose of the journey later either on the driver terminal or on TomTom system.

46. The requirement that the entries be made at the end of the journey or as soon as practicable after the end of the journey is generally met on an ongoing basis from the relevant inputs on the driver terminal and also from any other necessary calculations made by the TomTom system itself. However, there may be limited occasions on which it is not practical to enter this information immediately by the end of the journey. In such a situation, it will be accepted that the required entries were made as soon as practicable after the end of the relevant journey provided that the entries were made within 48 hours of the journey first being recorded on the TomTom system.

47. It is considered that the requirements that the entries be made in the English language is met on the printing of the relevant entries in the TomTom Logbook Report.

48. It is considered, therefore, that the necessary entries input into the TomTom system, taken together with the subsequent printing of those entries in the TomTom Logbook Report, meet the requirements for being 'log book records' for the purposes of the FBTAA.

'Applicable log book period'

49. The term 'applicable log book period' is defined in subsection 162H(1) as follows:

162H(1) [Car fringe benefit]

For the purposes of the application of section 10 in relation to a car fringe benefit in relation to an employer in relation to a car while it was held by a particular person during a particular period (in this subsection called the '**holding period**') starting or ending in a year of tax, a reference to the applicable log book period is a reference to:

- (a) if the holding period is a period of less than 12 weeks – the holding period; or
- (b) in any other case – a continuous period of not less than 12 weeks that begins and ends during the holding period.

50. The TomTom system does not automatically provide a log book report for a 12 week period. Therefore, an employer using the TomTom system will have to manually select the period for the TomTom Logbook Report, including the continuous twelve week period, where required. Where this is done, the TomTom Logbook Report will have been maintained for the applicable log book period.

(b) Does the TomTom system provide 'odometer records' for the 'applicable log book period'

51. The term 'odometer records' is defined in subsection 136(1) as follows:

odometer records, in relation to a car, in relation to a period, means a document in which particulars of:

- (a) the odometer reading of the car at the commencement of the period; and
- (b) the odometer reading of the car at the end of the period; and
- (c) ...
- (d) (Omitted by No 145 of 1995)
- (e) (Omitted by No 145 of 1995)

are entered in the English language, at, or as soon as reasonably practicable after, the respective times to which those odometer readings relate.

52. The definition of 'odometer records' in subsection 136(1) requires that odometer readings be recorded in relation to both the 'commencement of the period' and at the 'end of the period'.

53. As discussed at paragraph 42, each time the car is driven, the start and end odometer readings for each and every journey is normally calculated by the TomTom system. Therefore, where the TomTom system is used continuously for a period (including the twelve week continuous period, where required) the TomTom system will provide odometer readings for the commencement of the period and also the odometer reading for the end of the period.

54. However, as both the beginning odometer readings (other than the very first odometer reading) and the ending odometer readings for a relevant period will often be determined solely by the TomTom systems' calculations rather than being taken from the car's odometer, it will be necessary for the beginning and ending odometer readings produced by the TomTom system for a relevant applicable log book period (including the twelve week continuous period, where required) to be verified against the car's odometer readings and any adjustments of the TomTom system calculated odometer readings to be made where necessary on the TomTom Logbook Report.

55. It is considered that the requirements that the entries be made in the English language is met on the printing of the relevant entries in the TomTom Logbook Report.

56. It is accepted that the TomTom system provides odometer records for the applicable log book period on the condition that the beginning and ending odometer readings for the period produced by the TomTom system are verified against the car's beginning and ending odometer readings, as applicable, and any adjustments of the TomTom system calculated odometer readings be made where necessary on the TomTom Logbook Report.

(c) Does the TomTom system provide 'odometer records' for the 'holding period'?

57. The term 'holding period of car' is defined in section 162C as follows:

SECTION 162C HOLDING PERIOD OF CAR

162C Unless the contrary intention appears, a reference in this Act to a period in a year of tax during which a person held a car is a reference to the period that:

- (a) commences on whichever of the following times is applicable:
 - (i) if the person held the car at the time of commencement of the year of tax - that time;
 - (ii) in any other case - the time in the year of tax when the person commenced to hold the car; and
- (b) ends at whichever of the following times is applicable:
 - (i) if the person continued to hold the car until the time of the end of the year of tax - that time;
 - (ii) in any other case - the time in the year of tax when the person ceased to hold the car.

58. Subsection 162(1) states, amongst other things, that a car will be held by a person if that person either owns or leases the car. Therefore, the continuous period during a FBT year of tax (including the whole year of tax, where applicable) where the employer either owns or leases a car will be the 'holding period' of that car.

59. Consequently, the odometer readings at the beginning and end of the period during the FBT year of tax (including the whole year of tax, where applicable) where the employer either owns or leases a car will have to be determined. If the TomTom system is used continuously for the whole period that a car is held during a FBT year of tax the TomTom system will provide the odometer readings for both the beginning and end of that 'holding period' provided that the employer has verified and corrected the odometer readings in the TomTom system in the manner described in paragraph 21.

60. However, if the TomTom system is not used continuously for the whole of the holding period of the car during the FBT year of tax the end odometer readings for the car will need to be separately recorded.

(d) Does the TomTom system enable the employer to estimate the number of business kilometres travelled during the holding period in a log book year of tax?

61. The basis used to estimate the number of business kilometres is set out in section 162F which states:

For the purposes of this Act, the number of kilometres that represents a reasonable estimate of the number of business kilometres applicable to a car held by a person during a period in a year of tax shall be determined having regard to all relevant matters including, but without limiting the generality of the foregoing:

- (a) any logbook records, odometer records or other records maintained by or on behalf of the person; and
- (b) any variations in the pattern of use of the car.

62. The TomTom system determines the number of kilometres travelled on the journeys classified as being business journeys during the period in the FBT year for which the system is continuously used. Therefore, where the TomTom system is used continuously during the whole of the relevant holding period, during the FBT year, the TomTom system will enable the employer to readily estimate the number of business kilometres travelled and any variations in use during that period.

63. However, where the TomTom system is not used continuously for the whole of the relevant holding period, during the log book year, the employer will need to take additional relevant matters and records into account, besides the TomTom system information, in making reasonable estimates of the business kilometres travelled and any variations in the pattern of use of the car during the holding period.

(e) Does the TomTom system enable the employer to specify the business use percentage for the holding period in a log book year of tax?

64. Subsection 136(1) defines 'business use percentage' to mean the percentage worked out using the formula:

$$\frac{\text{Number of business kilometres travelled by the car during the holding period}}{\text{Total number of kilometres travelled by the car during the holding period}} \times 100\%$$

65. The TomTom system does not directly calculate the 'business use percentage' from the data input into the system. However, where the TomTom system is used continuously during the whole of the relevant holding period, during the FBT year, the TomTom system will enable the employer to readily estimate the number of business kilometres travelled and the total number of kilometres travelled by the car for the holding period. The employer will then have to separately determine the 'business use percentage' from those figures.

66. However, where the TomTom system is not used continuously for the whole of the relevant holding period the employer will need to take additional relevant matters and records into account besides the TomTom system information to separately determine the 'business use percentage'.

Conclusion on whether the TomTom system meets the relevant requirements of section 10A

67. The TomTom system taken together with the TomTom Logbook Report is a document that satisfies the definition of 'log book records' in subsection 136(1).

68. The TomTom system taken together with the TomTom Logbook Report is a document that satisfies the definition of 'odometer records' in subsection 136(1).

Where TomTom system is used for whole of holding period in a log book year of tax

69. An employer, in a log book year of tax, who uses the TomTom system continuously:

- for the duration of the 'applicable log book period' as that term is defined in subsection 162H(1); and
- for the whole of the 'holding period' as that term is defined in subsection 162C,

meets the requirements in section 10A and is entitled to claim a reduction of operating costs of a car on account of business journeys undertaken in the car during the holding period, provided the employer:

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and at the end of the applicable log book period, and in the event that the odometer readings are different, the car's odometer reading is used; and

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and at the end of the holding period and in the event the odometer readings are different the car's odometer reading is used; and
- separately works out the business use percentage from the calculations by the TomTom system of the number of business kilometres and the total number of kilometres travelled in the holding period.

Where TomTom system not used for whole of holding period in a log book year of tax

70. An employer, in a log book year of tax, who:

- uses the TomTom system for the duration of the 'applicable log book period' as that term is defined in subsection 162H(1); but
- does not use the TomTom system continuously for the whole of the 'holding period' as that term is defined in subsection 162C,

meets the requirements in section 10A and will be entitled to claim entitled to claim a reduction of operating costs of a car on account of business journeys undertaken in the car during the holding period, provided the employer:

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and the end of the applicable log book period, and in the event that the odometer readings are different, the car's odometer reading is used; and
- separately records the odometer readings for the beginning and end of the period of the year for which the car was held; and
- separately estimates the number of business kilometres travelled by the car during the period of the year for which the car was held using all relevant matters including the TomTom Logbook Report, odometer records and any variations in the pattern of use of the car; and
- separately specifies the business use percentage for the period of the year for which the car was held using the estimated number of business kilometres and the odometer readings for the beginning and end of the holding period.

Does the TomTom system meet the relevant requirements of section 10B?

71. The requirements that must be met for a reduction of the operating cost of the car to be claimed on account of the business journeys undertaken during the holding period in a non-logbook year of tax are set out in section 10B. Section 10B states:

SECTION 10B**10B NO REDUCTION OF OPERATING COST IN A NON-LOG BOOK YEAR OF TAX UNLESS LOG BOOK RECORDS AND ODOMETER RECORDS ARE MAINTAINED IN LOG BOOK YEAR OF TAX**

Where one or more car fringe benefits in relation to an employer in relation to a year of tax relate to a car while it was held by a particular person (in this section called the ``**provider**``) during a particular period (in this section called the ``**holding period**``) in a year of tax that is not a log book year of tax of the employer in relation to the car, the employer is entitled to a reduction in the operating cost of the car on account of business journeys undertaken during the holding period in the car if, and only if:

- (a) odometer records are maintained by or on behalf of the provider in relation to the car for the holding period and, if the provider is not the employer, are given to the employer before the declaration date; and
- (b) the employer specifies the employer's estimate of the number of business kilometres travelled by the car in the holding period; and
- (c) the employer specifies the business use percentage applicable to the car in relation to the provider for the holding period.

72. Section 10B requires that in a non-log book year of tax:

- (a) odometer records are maintained for the holding period;
- (b) the employer estimates the number of business kilometres travelled during the holding period;
- (c) the employer specifies the business use percentage for the holding period.

(a) Does the TomTom system provide 'odometer records' for the 'holding period' in a non-log book year of tax?

73. The requirement to keep odometer records for the holding period in a log book year of tax was discussed at paragraphs 57 to 59. Similarly, there is a requirement to keep odometer records for the holding period in a non-log book year of tax.

74. If the TomTom system is used continuously for the whole period that a car is held during a non-log book year of tax the TomTom system will provide the odometer readings for both the beginning and end of that holding period provided that the employer has verified and corrected the odometer readings in the TomTom system in the manner described in paragraph 21.

75. Where the TomTom system is not continuously used for the whole of the period of the year for which the car is held in a non-log book year of tax, the employer will need to separately maintain the odometer readings for the holding period.

(b) Does the TomTom system enable the employer to estimate the number of business kilometres travelled during the holding period in a non-log book year of tax?

76. The estimation of the number of business kilometres travelled during the holding period in a log book year of tax was discussed at paragraphs 61 to 63. The TomTom system determines the number of kilometres travelled on the journeys classified as being business journeys during the period in the FBT year for which the system is continuously used.

77. Where the TomTom system is used continuously for the whole of the period of the year for which the car is held in a non-log book year of tax, the TomTom system will enable the employer to readily estimate the number of business kilometres travelled and any variations in use during that period.

78. Where the TomTom system is not used for the whole of the period of the year for which the car is held in a non-log book year of tax, the employer will need to take additional relevant matters and records into account, besides the TomTom system information, in making reasonable estimates of the business kilometres travelled and any variations in the pattern of use of the car during the holding period.

(c) Does the TomTom system enable the employer to specify a percentage as the business use percentage for the holding period in a non-log book year of tax?

79. As discussed at paragraphs 64 to 66 the TomTom system does not directly calculate the 'business use percentage' from the data input into the system. Where the TomTom system is used continuously during the whole of the relevant holding period in a non-log book year of tax, the TomTom system will enable the employer to readily estimate the number of business kilometres travelled and the total number of kilometres travelled by the car for the holding period. The employer will then have to separately determine the 'business use percentage' from those figures.

80. However, where the TomTom system is not used continuously for the whole of the relevant holding period the employer will need to take additional relevant matters and records into account, besides the TomTom system information, to separately determine the 'business use percentage'.

Conclusion on whether the TomTom system meets the requirements of section 10B in a non-log book year of tax

81. An employer, in a non-log book year of tax, who uses the TomTom system continuously for the whole of the 'holding period', as that term is defined in subsection 162C, meets the requirements in section 10B and is entitled to claim a reduction of operating costs of a car on account of business journeys undertaken in the car during the holding period, provided the employer:

- has verified the odometer readings calculated by the TomTom system against the car's odometer readings at the start and at the end of the holding period, and in the event that the odometer readings are different, the car's odometer reading is used; and
- separately works out the business use percentage from the calculations by the TomTom system of the number of business kilometres and the total number of kilometres travelled in the holding period.

82. An employer, in a non-log book year of tax, who does not use the TomTom system or does not use it for the whole of the period that the car is held, but has used the system in one of the previous four FBT years meets the requirements in section 10B and will be entitled to claim a reduction of operating costs of the car on account of business journeys undertaken in the car during the holding period, provided the employer:

- separately records the odometer readings for the beginning and end of the period of the year for which the car was held; and
- separately estimates the number of business kilometres travelled by the car during the period of the year for which the car was held using all relevant matters including the TomTom Logbook Report, odometer records and any variations in the pattern of use of the car; and
- separately specifies the business use percentage for the period of the year for which the car was held using the estimated number of business kilometres and the odometer readings for the beginning and end of the holding period.

Appendix 2 – Detailed contents list

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10

Subject references:

- car fringe benefits
- FBT logbook records
- FBT odometer records

- FBTAA 1986 10B
- FBTAA 1986 136(1)
- FBTAA 1986 162(1)
- FBTAA 1986 162C
- FBTAA 1986 162F
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- FBTAA 1986 162(G)(1)(a)
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- FBTAA 1986 162H
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- TAA 1953

Legislative references:

- FBTAA 1986 10
- FBTAA 1986 10(2)
- FBTAA 1986 10A

Other references:

- The Macquarie Dictionary on-line

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