


***CR 2012/47 - Fringe benefits tax: employer clients of Fleet Partners Pty Ltd who use the TeleMatiXx reporting system for car log book records and for odometer records***

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## Class Ruling

### Fringe benefits tax: employer clients of Fleet Partners Pty Ltd who use the TeleMatiXx reporting system for car log book records and for odometer records

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#### **❶ 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 is:

- Section 10A of the *Fringe Benefit Tax Assessment Act 1986* (FBTAA);
- Section 10B 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 employer clients of Fleet Partners Pty Ltd who use the TeleMatiXx reporting system to fulfil their 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 9 to 28 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.

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## Date of effect

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8. This Ruling applies from 23 September 2011. 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).

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## **Scheme**

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9. 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 23 September 2011; and
- information provided subsequently by emails dated 11 November 2011, 24 November 2012 and 10 February 2012.

10. Fleet Partners Pty Ltd has developed the high integrity TeleMatiXx reporting system as a means of recording various types of data about a car's journey.

11. Employer clients of Fleet Partners Pty Ltd who use the TeleMatiXx reporting system for car log book records and for odometer records will utilise the TeleMatiXx reporting system for a minimum continuous period of 12 weeks in respect of the car journeys for each relevant car.

12. These clients will also utilise the TeleMatiXx reporting system at the start and end of the periods that they hold each of the relevant cars in either a 'log book year' or a 'non-log book year' (as those latter terms are defined in subsection 136(1)).

13. Elements of the TeleMatiXx reporting system include the electronic data key (data key), the information system (information system) and the FBT Trip Analysis Reports (TeleMatiXx reports).

### **The data key**

14. The data key is assigned to a user's car through a registration process. Only when this registration process has been successfully undertaken can data from the data key be uploaded to the information system. The registration process ensures that there is a 1 data key to 1 car relationship.

15. The data key is wireless and attaches to a car USB port or cigarette lighter outlet.

16. The data key uses a global positioning satellite (GPS) signal to record latitude, longitude, time and date data. This is collected every 15 seconds.

17. The data key uses the GPS signal to record the start and finish locations, the duration and the distance travelled on each journey by the car.

18. The data is uploaded onto the system by unplugging the data key and plugging it into a computer to transfer the collected trip data onto the information system.

## **The information system**

19. Regular uploads of the collected trip data from the data key to the information system allows continual analysis of that data. The data uploaded is mapped and can show actual locations/roads.

20. The purpose of each trip is manually input by the user at the time of upload. The information system can be pre-programmed to have up to 9 different narrations for the purpose of each journey plus the capability to input a different purpose where required.

21. At the time of initial registration, and also at the time of each upload, thereafter, the user manually inputs the current car odometer reading.

22. The information system then automatically calculates the opening and closing odometer readings for each trip using the GPS distance travelled data collected by the key.

23. When the current car odometer reading is manually loaded onto the information system it is checked against the current odometer reading as calculated by the information system and any difference is treated as non-business use of the car.

24. The information system can retain, for up to 90 days, data on the purpose, the start date and time, the start location, the end date and time, the end location, the kilometres travelled, the trip duration, the maximum speed and the opening and closing odometer records for each car journey.

## **The TeleMatiXx reports**

25. The TeleMatiXx reporting system currently produces the 'TeleMatiXx standard report'. If required, the TeleMatiXx reporting system can also produce the 'TeleMatiXx extended report' which contains additional information to that of the TeleMatiXx standard report.

26. The TeleMatiXx standard report produces the following details for each car journey:

- car registration;
- trip type (that is, the purpose of the journey);
- start date and time;
- start location;
- end date and time;
- end location;
- distance travelled;
- trip duration; and
- maximum speed.

27. The TeleMatiXx extended report produces the following details for each car journey:

- car registration;
- trip type (that is, the purpose of the journey);
- start date and time;
- start location;
- end date and time;
- end location;
- distance travelled;
- trip duration;
- maximum speed.
- opening odometer readings; and
- closing odometer readings.

28. The TeleMatiXx reporting system is also capable of producing additional detailed analysis of the car's use during any given period.

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

## **Ruling**

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29. The TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not a document that satisfies the definition of 'log book records' in subsection 136(1).

30. The TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not a document that satisfies the definition of 'odometer records' in subsection 136(1).

31. An employer using the TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not entitled to a reduction in the operating costs of a car under section 10A, in a log book year of tax, as the TeleMatiXx standard report is not a document that satisfies either the definition of 'log book records' or the definition of 'odometer records' in subsection 136(1).

32. An employer using the TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not entitled to a reduction in the operating costs of a car under section 10B, in a non-log book year of tax, as the TeleMatiXx standard report is not a document that satisfies the definition of 'odometer records' in subsection 136(1).

33. The TeleMatiXx extended report when produced by the TeleMatiXx system is a document that satisfies the definition of 'log book records' in subsection 136(1).

34. The TeleMatiXx extended report when produced by the TeleMatiXx system is a document that satisfies the definition of 'odometer records' in subsection 136(1).

35. An employer using the TeleMatiXx extended report is entitled to a reduction in the operating costs of a car under section 10A, in a log book year of tax, as the TeleMatiXx extended report is a document that satisfies both the definition of 'log book records' and the definition of 'odometer records' in subsection 136(1).

36. An employer using the TeleMatiXx extended report is entitled to a reduction in the operating costs of a car under section 10B, in a non-log book year of tax, as the TeleMatiXx extended report is a document that satisfies the definition of 'odometer records' in subsection 136(1).

## Appendix 1 – Explanation

**ⓘ** *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?**

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

38. The taxable value of the car fringe benefit using the operating cost method is calculated according to the following formula:

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

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.

39. Employers who wish to reduce the taxable value of car fringe benefits on account of business journeys when using the operating cost method must, firstly, meet certain conditions of either section 10A or section 10B, as applicable.

### **Is there an entitlement to claim a reduction of car operating costs under section 10A using the TeleMatiXx standard report?**

40. 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.

41. Therefore, it is essential in meeting the requirements of section 10A that both 'log book records' and 'odometer records' are maintained for the holding period.

***Does the TeleMatiXx standard report satisfy the definition of 'log book records'?***

42. 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);
- (j) (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.

43. The TeleMatiXx standard report produced by the TeleMatiXx reporting system details the information required by paragraphs (c), (e) and (f) of the above definition of 'log book records'.

44. It is accepted that the integrity of the TeleMatiXx reporting system is such that the information requirements of paragraphs (c), (e) and (f) of the above definition of 'log book records' will be met.

45. It is also accepted that the TeleMatiXx standard report will satisfy the requirement that the record be in the English language.

46. However, paragraph (d) of the definition of 'log book records', in subsection 136(1), requires that the respective odometer readings of the car at the beginning and end of the journey be entered into those records.

47. 'Odometer' is not defined in the ITAA 1997 or the FBTA, but the *Macquarie Dictionary*, online edition, defines the term as being 'an instrument for measuring distance passed over, as by a motor vehicle'.

48. However, 'odometer records', as defined 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.

49. 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 FBTA legislative requirements.

50. Nonetheless, the TeleMatiXx standard report does not provide any entries setting out the respective odometer readings for either the beginning or for the end of the car journey.

51. Irrespective that the TeleMatiXx reporting system has a sophisticated method for calculating the opening and closing odometer data for each car trip and that such calculated odometer data is regularly verified against the actual car closing odometer readings these facts alone do not obviate the legislative requirement for the respective odometer readings at the beginning and end of the car journey to be recorded in a log book or similar document.

52. The FBTA does not provide the Commissioner with any general discretion to waive the legislative requirement that the respective odometer readings of the car at the beginning and end of the journey be recorded in a log book or a similar document.

53. However, the Commissioner is provided with discretion to waive FBTA substantiation requirements under section 123B for some limited circumstances. The relevant circumstances, listed in subsection 123B(3), are:

**123B(3) [When Commissioner may exercise discretion]**

The Commissioner may only make a decision under subsection (1):

- (a) in the course of reviewing on the Commissioner's own motion the affairs of the employer; or

- (b) in considering an objection against the assessment of the employer of the year of tax; or
- (c) in considering whether to make an amendment of the assessment of the employer of the year of tax in response to a request made by the employer before the commencement of this section.

54. As none of the circumstances listed in subsection 123B(3) apply to the production of the TeleMatiXx standard report, the Commissioner has no discretion under that section to waive any omissions by the TeleMatiXx standard report to meet the legislative requirements for odometer readings at the beginning and end of the car journey to be recorded in a log book or similar document.

55. As the TeleMatiXx standard report is deficient in several necessary aspects, by not including entries for the opening and closing odometer readings for the car journey, the TeleMatiXx standard report does not satisfy the definition of 'log book records' in subsection 136(1).

56. The above view is not altered by the probability that the necessary information will have been calculated or otherwise electronically retained within the TeleMatiXx information system.

## ***Does the TeleMatiXx standard report satisfy the definition of 'odometer records'?***

57. 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.

58. The TeleMatiXx standard report does not document the odometer readings at either the commencement of the car journey nor at the end of the car journey. Therefore, neither the requirements of paragraph (a) nor the requirements of paragraph (b) of the definition of the term 'odometer records' in subsection 136(1) are, or can be, satisfied by the TeleMatiXx standard report.

59. Consequently, the TeleMatiXx standard report does not satisfy the definition of 'odometer records' in subsection 136(1).

60. The above view is not altered by the probability that the necessary information will have been calculated or otherwise electronically retained within the TeleMatiXx information system.

***Conclusion on whether there is an entitlement to claim a reduction of car operating costs under section 10A using the TeleMatiXx standard report***

61. The omission by the TeleMatiXx standard report to include entries for the opening and closing odometer readings for each car journey and also the omission by the TeleMatiXx standard report to include entries for the beginning and the end of each relevant period means that the TeleMatiXx standard report is not a document that satisfies the definition of either 'log book records' or 'odometer records' in subsection 136(1).

62. An employer using the TeleMatiXx standard report produced by the TeleMatiXx reporting system is not entitled to a reduction in the operating costs of a car under section 10A, in a log book year of tax, as the TeleMatiXx standard report is not a document that satisfies either the definition of 'log book records' or the definition of 'odometer records' in subsection 136(1).

**Is there an entitlement to claim a reduction of car operating costs under section 10B using the TeleMatiXx standard report?**

63. 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.

64. As determined above, at paragraph 59, the TeleMatixx standard report will not satisfy the definition of the term 'odometer records' in subsection 136(1).

65. As the TeleMatixx standard report will not satisfy the definition of the term 'odometer records' in subsection 136(1) it cannot, therefore, be used to satisfy the requirement of paragraph (a) of section 10B that odometer records be maintained by or on behalf of the provider for the holding period.

***Conclusion on whether there is an entitlement to claim a reduction of car operating costs under section 10B using the TeleMatixx standard report***

66. An employer using the TeleMatixx standard report produced by the TeleMatixx system is not entitled to a reduction in the operating costs of a car under section 10B, in a non-log book year of tax, as the TeleMatixx standard report is not a document that satisfies the definition of 'odometer records' in subsection 136(1) and, hence, one of the necessary requirements of section 10B is not met.

**Is there an entitlement to claim a reduction of car operating costs under section 10A using the TeleMatixx extended report?**

67. As stated previously, at paragraph 41, it is essential in meeting the requirements of section 10A that both 'log book records' and 'odometer records' are maintained for the holding period.

***Does the TeleMatixx extended report satisfy the definition of 'log book records'?***

68. The TeleMatixx extended report not only contains all the information detailed in the TeleMatixx standard report but also provides entries setting out the odometer reading at the beginning and at the end of each car journey.

69. The fact that such odometer readings may have been calculated by the TeleMatixx information system rather than recorded from the car's odometer does not prevent the requirements of paragraph (d) of the definition of 'log book records' being satisfied.

70. Provided a device or system, other than the car's own odometer, used to determine or otherwise calculate odometer readings is of sufficient integrity it is accepted that such a device or system can meet the relevant FBTAA legislative requirements.

71. Therefore, it is accepted that the opening and closing odometer readings for each car journey detailed on the TeleMatixx extended report satisfies the requirements of paragraph (d) of the definition of 'log book records'.

72. Nonetheless, despite acceptance that paragraphs (c) to (f) inclusive of the definition of 'log book records' will be met by the TeleMatiXx extended report and also that the TeleMatiXx extended report will meet the requirement to be in the English language, there is a further requirement that the 'log book records' be kept as a 'daily' log book (or similar document).

73. The definition of 'log book records' requires that 'entries should be made as soon as reasonably practicable after the end of the journey'. Although it is expected that normally such entries would be made in the log the same day as the car journey was undertaken, it is accepted that in situations where it is not practical to generate a hard copy of a log on a daily basis the period for making such entries may be extended.

74. Therefore, provided that the necessary entries are made or produced, at least, weekly it is considered that this further requirement will be met and as a result the TeleMatiXx extended report will satisfy all the requirements necessary to be regarded as 'log book records' for the purposes of the FBTAA.

***Does the TeleMatiXx extended report satisfy the definition of 'odometer records'?***

75. Paragraph (a) and paragraph (b) of the definition of the term 'odometer records', in subsection 136(1), both require that particulars of the odometer readings of the car at the commencement of the period and particulars of the odometer readings of the car at the end of the period, respectively, be on the relevant document.

76. Due to the interaction of sections 10A, 10B, 162C and 162H of the FBTAA, the relevant 'periods' for the purposes of 'odometer records', as defined in subsection 136(1), are the start and end of the applicable log book period and the start and end of the holding period for the purposes of section 10A and the start and end of the holding period for the purposes of section 10B.

77. The TeleMatiXx extended report can produce odometer readings for the car at the beginning and end of the 'applicable log book period', as that term is defined in section 162H, and also the beginning and end of the 'holding period', as that term is defined in section 162C. The requirement that particulars of the odometer readings of the car be on the document for the commencement and end of the relevant period(s) will, therefore, be met for the purposes of either section 10A or section 10B, as applicable.

78. Therefore, the requirements of both paragraph (a) and of paragraph (b) of the definition of the term 'odometer records' in subsection 136(1) are satisfied and, consequently, the TeleMatiXx extended report satisfies the definition of 'odometer records' in subsection 136(1).

***Conclusion on whether there is an entitlement to claim a reduction of car operating costs under section 10A using the TeleMatiXx extended report***

79. The TeleMatiXx extended report includes entries of the opening and closing odometer readings for each car journey and also odometer entries for the beginning and the end of each relevant period. Accordingly, the TeleMatiXx extended report satisfies the meaning of both 'log book records' and 'odometer records'.

80. Therefore, the necessary requirements for both paragraph (a) and paragraph (b) of section 10A are met. It is accepted that an employer using the TeleMatiXx information system will also meet the applicable other requirements of section 10A.

81. Consequently, an employer using the TeleMatiXx extended report produced by the TeleMatiXx reporting system is entitled to a reduction in the operating costs of a car under section 10A in a log book year of tax.

***Is there an entitlement to claim a reduction of car operating costs under section 10B using the TeleMatiXx extended report?***

82. As determined above, at paragraph 78, the extended report will satisfy the definition of the term 'odometer records' in subsection 136(1).

***Conclusion on whether there is an entitlement to claim a reduction of car operating costs under section 10B using the TeleMatiXx extended report***

83. The TeleMatiXx extended report will meet the necessary requirements of that part of paragraph (a) of section 10B in relation to 'odometer records'. It is accepted that an employer using the TeleMatiXx information system will also meet the applicable other requirements of section 10B.

84. Consequently, an employer using the TeleMatiXx extended report produced by the TeleMatiXx reporting system is entitled to a reduction in the operating costs of a car under section 10B in a non-log book year of tax.

## **Appendix 2 – Detailed contents list**

85. The following is a detailed contents list for this Ruling:

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## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

CR 2008/86; TR 2006/10

*Subject references:*

- car fringe benefits
- Commissioners discretion
- log book records
- odometer records

*Legislative references:*

- FBTAA 1986 10
- FBTAA 1986 10A
- FBTAA 1986 10B
- FBTAA 1986 123B
- FBTAA 1986 136(1)
- FBTAA 1986 162C
- FBTAA 1986 162H
- TAA 1953
- Copyright Act 1968

*Other references:*

- ATO ID 2002/925;
  - ATO ID 2003/1099
  - The Macquarie Dictionary, [multimedia] version 5, 1/10/01.
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## ATO references

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