


CR 2015/105 - Fringe benefits tax: employers who use the Telogis GPS system for car log book records and for odometer records

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Class Ruling

Fringe benefits tax: employers who use the Telogis GPS system for car log book records and for 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 provisions 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, 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 Telogis GPS 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 17 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 November 2015. 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 relevant documents or parts of documents incorporated into this description of the scheme are:

- the edited Class Ruling application provided by an email on 4 November 2015.
- information provided by an email on 12 November 2015.
- information provided by an email on 21 November 2015.

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. Telogis Inc developed the Telogis GPS system as a means of recoding car log book entries.

10. The Telogis GPS system consists of:

- A Global Positioning System (GPS) device that is installed in a car to capture journey information as it is able to monitor the position of the car so as to determine the car's journeys. It also records the start and stop times of the journeys and calculates the distance travelled in each of the journeys. At login, the user is prompted to confirm the car's current odometer reading.
- A cloud SaaS-based online platform (platform) which is used to monitor the car's movement and log their journeys during a pre-determined period. It also securely receives, processes, reports and stores the journey information for the duration of the user's contract period.
- A smart phone based mobile application (App) that allows the driver to identify the type of each journey by pressing left/right (personal/ business). It also allows the driver to record the purpose of each journey which is customisable by the user.
- A web browser based secure interface that allows the user to access the platform.
- Reports that are maintained in the platform and are generated on-demand for any 12 week period (or more) selectable by the user. The user can optionally download the reports for their own data warehousing arrangements and compliance.

11. Employer cars are fitted with GPS devices that automatically and regularly report back to the platform via the mobile 3G/4G networks.

12. All information on any journey undertaken by a car will be sent via the mobile network to be stored on the platform. Should the mobile network not be available, all data is stored in an inbuilt queue which is part of the Telogis Hardware/GPS devices design. This queue can hold unlimited data as long as the car battery is connected.

13. Any omission of data or incorrect entries results in alerts to the Telogis Quality Assurance Team who will be able to take the appropriate action to correct the record. There are also redundant and self-correction mechanisms in place which ensure that data makes it to the Telogis servers. 'Redundant' in this context means that Telogis GPS devices have the ability to read/store data online or offline depending on network availability and vehicle battery levels. This allows the unit to continue to operate properly under any circumstance (online, offline, or in case of a drained vehicle battery). As a failsafe, there is also a manual mechanism available to re-enter the data into the Telogis systems.

14. A Logbook viewer is available for supervisors to sample information for their cars and/or drivers. Random sample checks of data can be conducted based on the information collected from cars and journey classifications received from drivers. This is view-only data and changes can only be made by the drivers.

15. An employer will be able to use the Telogis GPS system to produce, in English, a 'FBT Journey Report' for any selected period for each car that has the system fitted. The Telogis platform also supports multiple languages so the Telogis GPS system is not limited to English only reporting.

16. The Telogis GPS system 'FBT Journey Report' will provide the following information for each journey undertaken in the selected period:

- the start and end date of the logbook period
- the journey type (private and business)
- the status (purpose) of the journey
- user attributes (including name and car registration details)
- the start time and date on which each journey occurs
- the location from which the journey commenced
- the starting odometer reading
- the time and date on which the journey was completed
- the location at which the journey was completed
- the ending odometer reading, and
- the total distance travelled during the journey (in kilometres).

17. The Telogis GPS system 'FBT Journey Report' will provide details of the calculated business use percentage for the selected period. (The percentage of the number of business kilometres travelled to the total number of kilometres travelled).

Ruling

18. The Telogis GPS system 'FBT Journey Report' is a document that satisfies the definition of 'log book records' in subsection 136(1).

19. The Telogis GPS system 'FBT Journey Report' is a document that satisfies the definition of 'odometer records' in subsection 136(1).

20. An employer using the Telogis GPS system 'FBT Journey Report' is entitled to claim a reduction of operating costs of a car on account of business journeys, in a log book year of tax, as the Telogis GPS system 'FBT Journey Report' meets the requirements of section 10A.

21. An employer using the Telogis GPS system 'FBT Journey Report' is entitled to claim a reduction of operating costs of a car on account of business journeys, in a non-log book year of tax, as the Telogis GPS system 'FBT Journey Report' meets the requirements of section 10B.

Commissioner of Taxation

9 December 2015

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?

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

23. Where the election is made, the taxable value of the car fringe benefit using the cost basis method (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:

- (a) if, under section 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 - nil; or
- (c) in any other case - the business use percentage applicable to the car for the holding period; and

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

24. 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 not a log book year of tax), as applicable.

Does the Telogis GPS system 'FBT Journey Report' meet the relevant requirements of section 10A?

25. Section 10A states:

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) if the provider is not the employer - those log book records and odometer records are given to the employer before the declaration date; and
- (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.

26. Section 162G sets out various circumstances under which a particular year can be treated as a 'log book year of tax'. It is accepted for present purposes that all employers using the Telogis GPS system will make an election under paragraph 162G(1)(b) to treat a relevant current year of tax as a 'log book year of tax'.

27. Nevertheless, it is essential to meet the requirements of section 10A that both 'log book records' and 'odometer records' are maintained.

Does the Telogis GPS system 'FBT Journey Report' satisfy the requirements of the definition of 'log book records'?

28. Subsection 136(1) 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;

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

29. The definition of 'log book records', in subsection 136(1), requires that the relevant record be 'a daily log book or similar document' and also the relevant entries are 'made in the English language at, or as soon as reasonable practical after, the end of the journey'.

30. The business use or private use details for the journey are input by the driver onto the GPS device of Telogis GPS system at the start of each car journey. The Telogis GPS system 'FBT Journey Report' provides its information in English.

31. Therefore, the 'FBT Journey Report' provided by Telogis GPS system meets the necessary requirement of being a 'daily log book or similar document' and also meets the necessary requirement of having the relevant entries 'made in the English language at, or as soon as practical after, the end of the journey'.

32. Although it is expected that the relevant entries will be made the same day the car journey was undertaken, it is accepted that in situations where it is not practical to generate a Telogis GPS system 'FBT Journey Report' on a daily basis, the period of making such entries may be extended. Therefore, provided the necessary entries are made or produced, at least weekly, it is considered that such circumstances do not necessarily change the view expressed previously (in paragraph 31 of this Ruling).

33. Paragraph (d) of the definition of 'log book records' in subsection 136(1), requires the respective odometer readings of the car at the beginning and at the end of the journey be entered into the relevant records.

34. 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'.

35. However, the term '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.

36. 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.

37. Each time the car is driven, the start and end odometer readings for the journey are calculated by the Telogis GPS system from the GPS and other telemetry data recorded. It is accepted that the opening and closing odometer readings calculated by the Telogis GPS system are of sufficient integrity to be 'odometer readings of the car'.

38. It is considered that the opening and closing odometer readings for each car journey detailed on the Telogis GPS system 'FBT Journey Report' satisfies the requirements of paragraph (d) of the definition of 'log book records' in subsection 136(1).

39. The Telogis GPS system 'FBT Journey Report' sets out particulars that readily satisfy paragraphs (c), (e) and (f) of the definition of 'log book records' in subsection 136(1).

40. However, the definition of 'log book records', in subsection 136(1), also requires that each business journey recorded in the log book records be in relation to a 'period'.

41. Paragraph 10A(a) refers to log book records being maintained for an 'applicable log book period'.

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

162H Applicable log book period

- (1) 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.

43. It is accepted, in the absence of evidence to the contrary in a particular case, that all employers using the Telogis GPS system 'FBT Journey Report' in relation to any car fringe benefits they provide will maintain the necessary records for the duration of the 'applicable log book period' (as that latter term is defined in subsection 162H(1)).

44. It is considered that the Telogis GPS system 'FBT Journey Report' satisfies all the relevant requirements of the definition of 'log book records' as defined in subsection 136(1).

Does the Telogis GPS system 'FBT Journey Report' satisfy the requirements of the definition of 'odometer records'?

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

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) if paragraph 162K(2)(b) or 162L(2)(b) applies with effect from a particular date—the odometer readings of both the replacement car and of the original car referred to in that paragraph, as at that date;

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

46. 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'.

47. The Telogis GPS system 'FBT Journey Report' provides details of the odometer reading for the car at the start of the first recorded journey and also the odometer reading for the car at the end of the last recorded journey that were undertaken during each report period.

48. As stated previously (at paragraph 43 of this Ruling), it is accepted in the absence of evidence to the contrary in a particular case, that all employers using the Telogis GPS system 'FBT Journey Report' will maintain the necessary records for the 'applicable log book period'.

49. It was determined previously (at paragraph 31 of this Ruling) that a Telogis GPS system 'FBT Journey Report' provided by the Telogis GPS system meets the necessary requirement of having entries 'made in the English language at, or as soon as reasonably practicable after, the end of the journey'.

50. Therefore, it is considered that the Telogis GPS system 'FBT Journey Report' satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

Conclusion on whether the Telogis GPS system 'FBT Journey Report' meets the relevant requirements of section 10A

51. As determined previously (at paragraphs 44 and 50 of this Ruling respectively), the Telogis GPS system 'FBT Journey Reports' are 'log book records' and 'odometer records' for the purposes of paragraph 10A(a).

52. It is also accepted, in the absence of any evidence to the contrary in a particular case, that all remaining applicable requirements of section 10A will be met by employers using the Telogis GPS system 'FBT Journey Report'.

53. An employer using the Telogis GPS system 'FBT Journey Report' is, consequently, entitled to a reduction of the operating costs of a car on account of business journeys, in a log book year of tax, as the Telogis GPS system 'FBT Journey Report' meets the relevant requirements of section 10A.

Does the Telogis GPS system 'FBT Journey Report' meet the relevant requirements of section 10B?

54. Section 10B states:

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.

55. As determined previously (at paragraph 50 of this Ruling) the Telogis GPS system 'FBT Journey Report' will satisfy the definition of the term 'odometer records' in subsection 136(1). For the reasons mentioned at paragraphs 46 to 49 of this Ruling, it is considered that the Telogis GPS system 'FBT Journey Report' will meet the definition of 'odometer records' for the purposes of paragraph 10B(a).

56. It is also accepted, in the absence of any evidence to the contrary in a particular case, that all remaining requirements of section 10B will be met by employers using the Telogis GPS system 'FBT Journey Report'.

Conclusion on whether the Telogis GPS system 'FBT Journey Report' meets the relevant requirements of section 10B

57. An employer using the Telogis GPS system 'FBT Journey Report' is, consequently, entitled to a reduction of the operating costs of a car on account of business journeys, in a non-log book year of tax, as the Telogis GPS system 'FBT Journey Report' meets the relevant requirements of section 10B.

Appendix 2 – Detailed contents list

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

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10; CR 2013/66

Legislative references:

- FBTAA 1986
- FBTAA 1986 10
- FBTAA 1986 10(2)
- FBTAA 1986 10A
- FBTAA 1986 10A(a)
- FBTAA 1986 10B
- FBTAA 1986 10B(a)
- FBTAA 1986 136(1)

- FBTAA 1986 162G
- FBTAA 1986 162G(1)(b)
- FBTAA 1986 162H
- FBTAA 1986 162H(1)
- ITAA 1997
- TAA 1953

Other references:

- *The Macquarie Dictionary*, [Online], viewed 9 December 2015, www.macquariedictionary.com.au
- ATO Interpretative Decision ATO ID 2002/925 Car fringe benefits: log book requirements - high integrity electronic devices

ATO references

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