


CR 2016/31 - Fringe benefits tax: employers who use the mTrax GPS system for car log book records and for odometer records

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Class Ruling

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

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🔒 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 Commissioners 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 Commissioners 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, 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 mTrax 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 18 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 29 February 2016. 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 dated 18 February 2016, and
 - information provided by email dated 8 March 2016.

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. Arvia Pty Ltd developed the mTrax GPS system as a means of recording car log book entries.

10. The mTrax 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 cars journeys. It also records the start and stop times of the journeys and calculates the distance travelled in each of the journeys
 - a cloud Software as a service (SaaS) based online platform (Platform) which is used to monitor the cars 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 users contract period
 - a smart phone based mobile application that allows the driver at the conclusion of each car journey to record the type of each journey. It also allows the driver to view and classify previous trips that have not been classified and to classify any unclassified trips as private. An administrative user can also update the odometer reading
 - a web browser based secure interface that allows the user to access the platform, and
 - 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 third generation (3G)/fourth generation (4G) mobile networks.
12. The GPS device is either hard wired to the car or plugs in via the 12 volt cigarette lighter outlet. The GPS device has an internal battery and should a plug in device be unplugged an alert is raised to say it has been removed from the car.
13. An initial odometer reading is taken by the installer of the GPS device which is recorded onto the mTrax GPS system. Subsequent readings are calculated and recorded onto the mTrax GPS system based on new data received from the GPS device.
14. 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 until it can be delivered.

15. Any omissions of data or incorrect entries are identified when the mTrax GPS system performs integrity checks when a FBT Vehicle Log Book is requested. The mTrax GPS system will decline to produce a FBT Vehicle Log Book if data needed to produce it is missing. Instead it will display a list of problems that need to be rectified before it will produce the FBT Vehicle Log Book.

16. An employer will be able to use the mTrax GPS system to produce, in English, a FBT Vehicle Log Book for any selected period for each car that has the system fitted.

17. The mTrax GPS system FBT Vehicle Log Book will provide the following information:

- start and end date of the logbook period
- the journey type (private or 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).

18. The mTrax GPS system FBT Vehicle Log Book 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

19. The mTrax GPS system FBT Vehicle Log Book is a document that satisfies the definition of log book records in subsection 136(1).

20. The mTrax GPS system FBT Vehicle Log Book is a document that satisfies the definition of odometer records in subsection 136(1).

21. An employer using the mTrax GPS system FBT Vehicle Log Book 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 mTrax GPS system FBT Vehicle Log Book meets the requirements of section 10A.

22. An employer using the mTrax GPS system FBT Vehicle Log Book 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 mTrax GPS system FBT Vehicle Log Book meets the requirements of section 10B.

Commissioner of Taxation

25 May 2016

Appendix 1 – Explanation

ⓘ *This Appendix is provided as information to help you understand how the Commissioners 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?

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

24. 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 recipients payment.

25. 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 mTrax GPS system FBT Vehicle Log Book meet the relevant requirements of section 10A?

26. Section 10A states:

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 employers 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.

27. 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 mTrax 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.

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

Does the mTrax GPS system FBT Vehicle Log Book satisfy the requirements of the definition of log book records?

29. Subsection 136(1) of the FBTAA 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.

30. 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.

31. The business use or private use details for the journey are input by the driver onto the GPS device of mTrax GPS system at the end of each car journey. The mTrax GPS system FBT Vehicle Log Book provides its information in English.

32. Therefore, the journey report provided by mTrax 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.

33. 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 an mTrax GPS system FBT Vehicle Log Book 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 32 of this Ruling).

34. 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.

35. The term odometer is not defined in either the FBTA 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.

36. 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 cars wheels, thereby mechanically moving the standard odometer fitted in the car by the manufacturer.

37. Provided the device used to determine the cars odometer readings is of sufficient integrity it can be accepted that a system other than the cars own odometer may meet the FBTA legislative requirements.

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

39. It is considered that the opening and closing odometer readings for each car journey detailed on the mTrax GPS system FBT Vehicle Log Book satisfies the requirements of paragraph (d) of the definition of log book records in subsection 136(1).

40. The mTrax GPS system FBT Vehicle Log Book sets out particulars that readily satisfy paragraphs (c), (e) and (f) of the definition of log book records in subsection 136(1).

41. 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.

42. Paragraph (a) of section 10A refers to log book records being maintained for an applicable log book period.

43. 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.

44. It is accepted, in the absence of evidence to the contrary in a particular case, that all employers using the mTrax GPS system FBT Vehicle Log Book 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)).

45. It is considered that the mTrax GPS system FBT Vehicle Log Book satisfies all the relevant requirements of the definition of log book records as defined in subsection 136(1).

Does the mTrax GPS system FBT Vehicle Log Book satisfy the requirements of the definition of odometer records?

46. 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.

47. 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.

48. The mTrax GPS system FBT Vehicle Log Book 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.

49. As stated previously (at paragraph 44 of this Ruling), it is accepted in the absence of evidence to the contrary in a particular case, that all employers using the mTrax GPS system journey will maintain the necessary records for the applicable log book period.

50. It was determined previously (at paragraph 32 of this Ruling), that a mTrax GPS system FBT Vehicle Log Book provided by the mTrax 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.

51. Therefore, it is considered that the mTrax GPS system FBT Vehicle Log Book satisfies all the relevant requirements of the definition of odometer records as defined in subsection 136(1).

Conclusion on whether the mTrax GPS system FBT Vehicle Log Book meets the relevant requirements of section 10A

52. As determined previously (at paragraphs 45 and 51 of this Ruling respectively), the mTrax GPS system FBT Vehicle Log Books are log book records and odometer records for the purposes of paragraph (a) of section 10A.

53. 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 mTrax GPS system FBT Vehicle Log Book.

54. An employer using the mTrax GPS system FBT Vehicle Log Book 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 mTrax GPS system FBT Vehicle Log Book meets the relevant requirements of section 10A.

Does the mTrax GPS system FBT Vehicle Log Book meet the relevant requirements of section 10B?

55. Section 10B states:

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 employers 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 person.

56. As determined previously (at paragraph 51 of this Ruling) the mTrax GPS system FBT Vehicle Log Book will satisfy the definition of the term odometer records in subsection 136(1). For similar reasons, it is considered that the mTrax GPS system FBT Vehicle Log Book will meet the definition of odometer records for the purposes of paragraph (a) of section 10B.

57. 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 mTrax GPS system FBT Vehicle Log Book.

Conclusion on whether the mTrax GPS system FBT Vehicle Log Book meets the relevant requirements of section 10B

58. An employer using the mTrax GPS system FBT Vehicle Log Book 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 mTrax GPS system FBT Vehicle Log Book meets the relevant requirements of section 10B.

Appendix 2 – Detailed contents list

59. 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

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 18 April 2016,

ATO references

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