

CR 2016/91 - Fringe benefits tax: employers using the Fleetsu Vehicle Log Book System for car log book and odometer records



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Class Ruling

Fringe benefits tax: employers using the Fleetsu Vehicle Log Book 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 provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provisions

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 are to those employers who use the Fleetsu 'Vehicle Log Book System', a 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 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 July 2016 to 30 June 2021. The Ruling continues to apply to all entities within the specified class who entered into the specified scheme during the term of the Ruling. 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.

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. Fleetsu Pty Ltd has developed a Vehicle Log Book System for its customers to maintain and record car log book entries as required under the FBTAA.
10. The Vehicle Log Book System consists of:
 - A Global Positioning System (GPS) device and tracker installed in a car to capture journey information by monitoring 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. The device also allows the driver and administrators to classify and review all trips per activity types.

- An online platform is used to monitor the car's movements and log its journeys constantly. It displays the data relating to a configurable period which may include a pre-defined logbook period for a minimum of 12 weeks. It also securely receives, processes, reports and stores the journey's information for the duration of the user's contract period.
- A smart phone based mobile application allows the driver at the conclusion of each car journey to record the type of 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.
- A web browser based secure interface allows the user to access the platform.
- Reports are maintained in the platform and generated by the administrator on-demand on a customisable beginning and end date with a minimum 12 week period. The log book beginning and end date is displayed and printed on the finished log book.

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

12. The GPS device is either hard wired to the car's battery or plugs in via the OBD2 port.

13. An initial odometer reading is taken by the installer of the GPS device which is recorded onto the Fleetsu 'Vehicle Log Book System'. Subsequent readings are calculated and recorded onto the Fleetsu Vehicle Log Book System based on new data received from the GPS device. Every trip is logged with the System requiring drivers to classify every trip made as either 'personal' or 'business' with the relevant description. The driver can use a mobile telephone or a desktop/laptop computer to classify each journey. The administrator can see at all times the progress of classification, the number of trips made and the number of unclassified trips.

14. For all classified business journeys, the driver must include the journey purpose. The system will not allow a trip to be classified as business without stating the purpose. This data can then be reviewed and audited by the system administrator.

15. All information on any journey undertaken by a car will be sent via the mobile network to be stored on the platform. The device will buffer data points (up to 10,000 points) for 14 days of concurrent tracking if there is no mobile network to connect.

16. A client will be able to use the Fleetsu Vehicle Log Book System to produce (in English) an FBT vehicle log book for any selected period for each car that has the System fitted.

17. The log book administrator is capable of reviewing all trip information and is required to identify any errors or potentially mis-classified trips prior to completing the log book. The log book can only be printed by a user with log book administration rights and only then once all trips in the log book have been classified and the log book completed by the driver.

18. The Fleetsu Vehicle Log Book System report (Journey Report) will provide the following information:

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

19. The Fleetsu Vehicle Log Book System report provides details of the calculated business use percentage for the selected period (percentage of number of business kilometres travelled to the total number of kilometres travelled).

20. The Fleetsu Vehicle Log Book System constantly monitors the quality of GPS data. Each position point carries the following quality and accuracy information:

- number of visible satellite
- HDOP (Horizontal Dilution of Precision), and
- telemetry and accelerometer readings.

21. Fleetsu's Vehicle Log Book System ensures delivery of each message to the platform. The System also operates a fully fail-safe environment with the same copies of data stored in multiple secured locations including constant and live data backups. All critical components of the Fleetsu Vehicle Log Book System are monitored by automatic alerting systems.

Ruling

22. The Journey Report created by the Fleetsu Vehicle Log Book System is a document that satisfies the definition of 'log book records' in subsection 136(1) provided:

- the report is for an applicable log book period
- the purpose of the journey is sufficiently descriptive to enable the journey to be classified as a business journey, and
- the purpose of the journey classified as being a business journey is entered within a week of the journey occurring.

23. The report created by the Fleetsu Vehicle Log Book System 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 Fleetsu Vehicle Log Book System continuously for:

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

satisfies the requirements in section 10A and is entitled to claim a reduction of operating costs.

25. An employer in a log book year of tax who uses the Fleetsu Vehicle Log Book System continuously for:

- the duration of the 'applicable log book period' as defined in subsection 162H(1), and
- does not use the Fleetsu 'Vehicle Log Book System' continuously for the whole of the 'holding period' as defined in section 162C,

satisfies the requirements in section 10A and is entitled to claim a reduction of operating costs 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
- 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 Journey Report, odometer records and any variations in the pattern of use of the car, and
- 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 that uses the Fleetsu Vehicle Log Book System continuously for the whole of the holding period (as defined in section 162C), satisfies the requirements in section 10B and is entitled to claim a reduction of operating costs.

27. An employer in a non-log book year of tax who has used the Fleetsu Vehicle Log Book System in one of the previous four FBT years continuously for an 'applicable log book period but:

- does not use the System in that year of tax, or
- does not use it for the whole of the period that the car is held,

satisfies 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 odometer readings for the beginning and end of the period of the year for which the car was held
- 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 Journey Report, odometer records and any variations in the pattern of use of the car, and
- specifies the business use percentage for the period of the year for which the car is 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 under section 10?

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

29. Where the election is made, the taxable value of car fringe benefits that relate to a car 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:

- (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.

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

Does the Fleetsu Vehicle Log Book System satisfy the requirements under section 10A?

31. Section 10A states:

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

10A. 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.

32. Section 162G sets out various circumstances under which a particular year can be treated as a 'log book year of tax'. It is accepted that all employers using the Fleetsu Vehicle Log Book System will elect under paragraph 162G(1)(b) to treat a current year of tax as a 'log book year of tax'.

Does the Journey Report created by the Fleetsu Vehicle Log Book System satisfy the requirements of the definition of 'log book records' under subsection 136(1)?

33. 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.

34. Paragraph 136(1)(c) of the definition of 'log book records' requires the date on which the journey began and ended to be entered in the relevant records. The Fleetsu Vehicle Log Book System records the start and end dates and times of each journey and this information is detailed in the Journey Report. Therefore, this requirement is satisfied.

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

36. 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'.

37. The term 'odometer records', as defined in subsection 136(1) of the FBTAA makes reference to 'odometer reading of the car'. 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.

38. Provided the GPS device used to determine the car's odometer readings is of sufficient integrity, it is accepted that a system other than the car's own odometer may meet the FBTAA legislative requirements.

39. Each time the car is driven, the start and end odometer readings for the journey are calculated from the GPS and other telemetry data recorded. It is accepted that the opening and closing odometer readings calculated by the Fleetsu 'Vehicle Log Book System' is of sufficient integrity to be odometer readings of the car.

40. It is accepted that the opening and closing odometer readings for each car journey detailed in the Journey Report satisfies the requirements of paragraph 136(1)(d) of the definition of 'log book records'.

41. The number of kilometres travelled by the car in the course of each journey is also detailed in the Journey Report thus satisfying the requirement in paragraph 136(1)(e) of the definition of 'log book records'.

42. Paragraph (f) of the definition of 'log book records' requires the purpose or purposes of the business journeys to be recorded. Further, the definition of log book records requires that entries be made at, or as soon as reasonably practicable after, the end of the journey.

43. The business or private use journey classification details are input by drivers using a smart phone based mobile application of the Fleetsu Vehicle Log Book System at the end of each car journey. The driver can also view and classify previous trips that were not classified. Access to the platform via the web browser based secure interface can also be made on a desktop or laptop computer. The

driver is also required to enter the purpose of the trip for business journeys. The system will not allow a journey to be classified as a business journey without stating the purpose of the journey.

44. The administrator can see at all times the number of trips made, the progress of classification and the number of unclassified trips and is required to identify and rectify any errors prior to printing the log book.

45. It is expected that the reason recorded for each business journey is sufficiently descriptive so as to enable the journey to be classified as a business journey and that the relevant classification and description will be made at the end of each journey or as soon as reasonably practicable thereafter. Provided this occurs within a week of the journey occurring, it will be accepted that the entry was made as soon as practicable after the end of the journey.

46. It is accepted that the Fleetsu Vehicle Log Book System' Journey Report satisfies the requirements in paragraph 136(1)(f).

47. It is considered that the Fleetsu Vehicle Log Book System and Journey Report is 'a daily log book or similar document' that satisfies the requirement of being made in the English language at or as soon as reasonably practicable after the end of the journey.

48. The Journey Report generated by the Fleetsu Vehicle Log Book System satisfies the definition of 'log book records' in subsection 136(1) provided the report is completed for an 'applicable log book period'.

Are the records maintained for an 'applicable log book period'?

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

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

162H APPLICABLE LOG BOOK PERIOD

(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.

51. The Journey Reports that are generated by the Fleetsu Vehicle Log Book System by the administrator must be for a minimum 12 week period. The log book beginning and end date is displayed on the printed log book. It is accepted that in the absence of evidence to the contrary in a particular case, all employers using the Fleetsu Vehicle Log Book System in relation to any car fringe benefits that 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)).

Do the Reports created by the Fleetsu Vehicle Log Book System satisfy the requirements of the definition of 'odometer records' under subsection 136(1)?

52. 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.

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

54. The Fleetsu Vehicle Log Book System provides a report which details 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.

55. As stated at paragraph 51 of this Ruling, It is accepted that in the absence of evidence to the contrary in a particular case, all employers using the Fleetsu Vehicle Log Book System will maintain the necessary records for the 'applicable log book period'.

56. A report can be generated at the end of the log book period showing the odometer recordings made and the type of journey undertaken. It is accepted that a Fleetsu Vehicle Log Book System report meets the necessary requirement of having entries made in English at or as soon as reasonably practicable after the end of the journey.

57. It is considered that the Fleetsu Vehicle Log Book System satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1) for an applicable log book period.

Does the Fleetsu Vehicle Log Book System report provide odometer records for the holding period?

58. Paragraph 10A(b) requires odometer records to be maintained for the holding period as defined in section 162C.

59. The Fleetsu Vehicle Log Book System report will provide odometer records for the period of the year in which the system is used. Therefore, where the system is used continuously for the whole of the period of the year for which the car is held, the report will provide the odometer records for the holding period.

60. However, if the System is not continuously used for the whole of the period of the year for which the car is held, the Reports will not provide both the start and end odometer readings for the holding period. For example, if the car is held for the full year but the Vehicle Log Book System is only used for the first 12 weeks of the year, the Reports will only provide the odometer reading as at the start of the holding period. The Reports will not provide the odometer reading for the end of the year (the end of the holding period). Therefore, in such a situation, the odometer reading at the end of the period will need to be separately recorded for the Reports to provide odometer records for the holding period.

Does the Fleetsu Vehicle Log Book System enable the employer to estimate the number of business kilometres travelled during the holding period in a log book year of tax?

61. Paragraph 10A(d) requires the employer to estimate the number of business kilometres travelled by the car during the holding period. This estimate is used to calculate the business use percentage required by paragraph 10A(e).

62. 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 log book 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.

63. The Fleetsu 'Vehicle Log Book System' uses the calculations of the kilometres travelled on the journeys classified as being a business journey during the period for which the system is used to calculate the total number of business kilometres travelled during the period. Therefore, where the system is used continuously for the whole of the period of the year for which the car is held, the report will enable the employer to estimate the number of business kilometres travelled during the holding period.

64. However, where the Fleetsu 'Vehicle Log Book System' is not continuously used for the whole of the period of the year for which the car is held, the number of business kilometres recorded in the report will only be the business kilometres travelled during the period in which the system is used. In such a situation, the employer in estimating the number of business kilometres travelled during the holding period, will need to take all relevant matters into account including the Journey Report, odometer records and any variations in the pattern of use of the car.

Does the Fleetsu Vehicle Log Book System enable the employer to specify the business use percentage for the holding period in a log book year of tax?

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

[Number of business kilometres travelled by the car during the holding period / Total number of kilometres travelled by the car during the holding period] * 100%

66. Where the Fleetsu Vehicle Log Book System is used continuously for the whole of the period of the year for which the car is held, it will calculate both the number of business kilometres and the total number of kilometres travelled by the car during the holding period. Using these calculations, the report provides the business use percentage for the holding period.

67. However, where the Fleetsu Vehicle Log Book System is not continuously used for the whole of the period of the year for which the car is held, the system will not record the number of business kilometres travelled during the holding period, nor the total number of kilometres travelled during the holding period. Therefore, in such a situation it will be necessary for the employer to separately determine the business use percentage using the estimated number of business kilometres and the odometer readings for the beginning and end of the holding period.

Conclusion on whether the Fleetsu Vehicle Log Book System satisfies the requirements of section 10A

68. Where the Fleetsu Vehicle Log Book System is used continuously for the whole of the period of the year for which the car is held, the Reports generated by the Fleetsu Vehicle Log Book

System for that period will meet all the necessary requirements of section 10A.

69. Where the Fleetsu Vehicle Log Book System is not used continuously for the whole of the period of the year for which the car is held, the Reports will not by itself satisfy the requirements of section 10A that are in respect of the holding period. To satisfy these requirements, an employer will need to:

- separately record the odometer readings for the beginning and end of the period of the year for which the car was held,
- estimate 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 Journey Report, odometer records and any variations in the pattern of use of the car, and
- specify 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 Fleetsu Vehicle Log Book System satisfy the requirements of section 10B?

70. 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

10B. 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 person.

71. Where the Fleetsu Vehicle Log Book System is used continuously for the whole of the holding period, the Reports will meet all the necessary requirements of section 10B in a non-log book year of tax as:

- it will provide odometer records for the beginning and end of that holding period
- it will determine the number of kilometres travelled on the journeys classified as business journeys during the period for which the system is continuously used, and
- it calculates the business use percentage for the selected period using the estimated number of business kilometres and the odometer readings for the beginning and end of the holding period.

72. An employer in a non-log book year of tax who does not use the Fleetsu Vehicle Log Book 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 continuously for an 'applicable log book period', will not by itself satisfy the requirements of section 10B. The employer will also need to:

- separately maintain odometer readings for the beginning and end of the period of the year for which the car was held
- estimate 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 Journey Report, odometer records and any variations in the pattern of use of the car, and
- specify the business use percentage for the period of the year for which the car is 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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Not previously issued as a draft

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