


***CR 2016/95 - Fringe benefits tax: employer clients of PricewaterhouseCoopers who use the Swift for Motor Vehicles system for car log book records and for odometer records***

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## Class Ruling

### Fringe benefits tax: employer clients of PricewaterhouseCoopers who use the Swift for Motor Vehicles 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 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 employer clients of PricewaterhouseCoopers (PwC) who use the Swift for Motor Vehicles system (Swift.MV) 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 8-32 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

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7. This Ruling applies from 1 April 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

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

- the application for class ruling dated 28 October 2016, and
- information provided by email dated 4 November 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. PwC has developed Swift.MV as a means of recording car log book entries.

10. Through an In-Car Device, Swift.MV is able to record all car journeys undertaken in the car and allows the driver to classify the journeys as private or business in nature. This will facilitate the calculation of the business use percentage for determining the taxable value of a car fringe benefit under the cost basis method (also known as the 'operating cost method').

11. The Swift.MV product consists of:

- car and employee registration with secure login and password features through password authentication software, 'Auth 0'
- an In-Car Device that records journey information
- a secure cloud-based remote data management platform (the Cloud) from provider Amazon Web Services that allows the data to be stored and accessed
- a smart mobile phone-based application (the App) through which drivers can input journey information including vehicle details and journey descriptions. The App can be downloaded onto Apple iOS or Android from the Apple App Store or Google Play Store, and
- an interactive display (Dashboard) that is accessible by the employer and other authorised parties, such as a tax advisor. The Dashboard provides oversight to data in relation to each vehicle, and can produce reports detailing each journey, the business versus personal classification of journeys (and therefore the point-in-time business use percentage of that vehicle), vehicle maintenance costs and other relevant data.

12. The In-Car Device uses Global Positioning System (GPS) technology to record start and end locations of journeys, start and end dates and times of each journey and distances travelled.

13. The In-Car Device contains a 4G, 3G and 2G GPS tracking unit that networks back to the Cloud, the App and the Dashboard. The In-Car Device is powered by connecting directly to the car's On-Board Diagnostics (OBD) port.

14. The following data will be entered into the App prior to use of the In-Car Device in a particular vehicle:

- login and password details
- the name of the employer
- email address for user notifications and App configuration
- driver name
- car registration
- car make and model

- engine size, and
- carrying capacity.

15. Employers and employees will be invited to attend a training and installation seminar. Online user instructions are also available when the App is downloaded from the Apple App Store or Google Play Store.

16. After installation of the In-Car Device, employees and other authorised parties can access the App on their smart mobile phone device. The employer will also have access to the Dashboard.

17. The In-Car Device begins recording when the GPS receives the required signal and senses movement in the vehicle. The car's location, distance travelled, time and date is recorded and transmitted to the Cloud. It is then routed to the App and Dashboard.

18. Relevant information surrounding the employee's journey is then available to be viewed on the App and the Dashboard. A history of each journey is created that is linked to individual vehicles and the corresponding employee driver. This can be accessed by the employee via the App, and the employer via the Dashboard.

19. When utilising the App, the user is able to:

- login with an email address and password details
- select the vehicle being used
- view pending journeys
- enter a description for the journeys
- classify journeys as business or private, and
- save and/or submit the journey details.

20. Journey descriptions can be completed by one of the following ways:

- entered manually by the employee
- selected from a default list of descriptions, or
- imported from a calendar synced with the employee's smart mobile phone service.

21. Subsequent to an In-Car device being placed in an employee's vehicle, the user must input or confirm relevant journey information for each subsequent journey, via the App, to facilitate the capturing of relevant information for FBT logbook purposes.

22. The data captured, such as starting and finishing locations, is captured and defined by the user as private or business in nature. The App and Dashboard collates this user defined data. As soon as a journey has been recorded in the system, the employee is required to classify and enter a description of that journey. The employee is prompted via a notification being raised to the employee's smart phone. The employer may set the frequency of notifications at the commencement of the logbook period (for example, once every journey, once every day etcetera.).

23. The user can proactively place the App in 'private mode'. Whilst set to 'private mode' all kilometres travelled on a journey will be deemed as private in nature.

24. At the beginning of the log book period, the user will input the odometer reading. At the conclusion of the period, the user will again enter the odometer reading or, alternatively, the In-Car Device will be able to read the odometer.

25. The employer has access to the Dashboard and may review all data contained within the Dashboard as frequently as they consider reasonable – whether that be daily, weekly or otherwise. The employer may then make enquiries with any relevant employees and take steps as they see necessary, to understand any discrepancies that may exist in relation to GPS data and odometer readings.

26. GPS tracking is generally considered accurate and, as a consequence, there are unlikely to be large variances between distances recorded via the GPS and odometer readings. In the event there is a discrepancy, it is up to the employer to identify the cause and take reasonable steps to remedy the discrepancy (for example, if an incorrect odometer reading is manually entered). In the event they are unable to remedy the discrepancy or the variance is considered unreasonable for a particular trip, that trip may be deemed to be private in nature. Alternatively, the employer may re-start the log book period. This will be assessed by the employer on a case-by-case basis.

27. Swift.MV facilitates the timely collection of data allowing employees to view their journey history and input journey descriptions and classifications through the App.

28. The employer has access to the Dashboard at all times and therefore may check trip classifications as frequently as they consider reasonable (the onus is on the employer to conduct these checks and ensure they are comfortable with the classification of each trip). If the journey description lacks the required detail, the employer can request that further details be entered by the employee. This enhances the integrity of recorded data.

29. The Dashboard facilitates the recording of each car journey. The following details are recorded and are accessible by the employer in an exportable log book report (Swift.MV report), except for when the App is placed in 'private mode' by the user, via the Dashboard:

- car registration
- driver
- a record of all journeys made by the relevant car
- date of journey
- start time of each journey
- end time of each journey
- opening odometer reading
- closing odometer reading
- total kilometres travelled during the journey
- journey details (including start and end address)
- classification of journey (business or personal), and
- description of the purpose or purposes of the journey.

30. When the App is in 'private mode', the only details recorded are the odometer reading at the commencement of the use of this mode and the odometer reading at the time this mode is turned off. All kilometres travelled during this period are automatically deemed to be private travel for the purposes of the logbook period.

31. The employer, via the Dashboard, also has a summary of all drivers and the corresponding vehicle during the log book period, including:

- user attributes (including name and car registration details)
- opening odometer reading
- closing odometer reading
- business use percentage
- last journey
- start date of log book
- end date of log book, and
- days remaining in the log book period.

32. Reports are exportable in a variety of digital formats and are in English.

## **Ruling**

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33. The Swift.MV report is a document that satisfies the definition of 'log book records' in subsection 136(1).

34. The Swift.MV report is a document that satisfies the definition of 'odometer records' in subsection 136(1).

35. An employer using the Swift.MV 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 Swift.MV report meets the requirements of section 10A.

36. An employer using the Swift.MV 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 Swift.MV report meets the requirements of section 10B.

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**Commissioner of Taxation**

14 December 2016

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## 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?

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

38. 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
- (b) (Omitted by No. 145 of 1995)
- (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.

39. 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 Swift.MV report meet the relevant requirements of section 10A?

40. 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.

41. 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 Swift.MV 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'.

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

### **Does the Swift.MV report satisfy the requirements of the definition of 'log book records'?**

43. 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.

44. 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 reasonably practicable after, the end of the journey'.

45. The business use or private use details for the journey are input by the driver onto the Swift.MV system at the end of each car journey, or as soon as reasonably practicable after the end of each journey.

46. The employee is prompted via a notification being raised to the employee's smart phone App. The employer may set the frequency of notifications at the commencement of the logbook period (for example, once every journey, once every day etcetera.).

47. The Swift.MV report provides its information in English.

48. Therefore, the Swift.MV report provided by Swift.MV 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 reasonably practicable after, the end of the journey'.

49. 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 log book 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 48 of this Ruling).

50. 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.

51. 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'.

52. 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.

53. 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.

54. The In-Car Device uses Global Positioning System (GPS) technology to record start and end locations of journeys, start and end dates and times of each journey and distances travelled. The App and Dashboard record the changes in odometer readings and distance travelled at the conclusion of each business journey.

55. Each time the car is driven, the start and end odometer readings for the journey are calculated by the In-Car Device from the GPS data recorded. It is accepted that the opening and closing odometer readings calculated by the Swift.MV system are of sufficient integrity to be 'odometer readings of the car'.

56. It is considered that the opening and closing odometer readings for each car journey detailed on the Swift.MV report satisfies the requirements of paragraph (d) of the definition of 'log book records' in subsection 136(1).

57. The Swift.MV report sets out particulars that readily satisfy paragraphs (c), (e) and (f) of the definition of 'log book records' in subsection 136(1).

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

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

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

**162H(1) [car fringe benefit]** For the purposes of the application of section 10 in relation to a car fringe benefit in relation to an employer in relation to a car while it was held by a particular person during a particular period (in this subsection called the **holding period**) starting or ending in a year of tax, a reference to the applicable log book period is a reference to:

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

61. It is accepted, in the absence of evidence to the contrary in a particular case, that all employers using the Swift.MV 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)).

62. It is considered that the Swift.MV report satisfies all the relevant requirements of the definition of 'log book records' as defined in subsection 136(1).

## **Does the Swift.MV report satisfy the requirements of the definition of 'odometer records'?**

63. 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.

64. 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'.

65. The Swift.MV 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.

66. As stated previously (at paragraph 61 of this Ruling), it is accepted in the absence of evidence to the contrary in a particular case, that all employers using the Swift.MV report will maintain the necessary records for the 'applicable log book period'.

67. It was determined previously (at paragraph 48 of this Ruling), that a Swift.MV report provided by the Swift.MV 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'.

68. Therefore, it is considered that the Swift.MV report satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

## **Conclusion on whether the Swift.MV report meets the relevant requirements of section 10A**

69. As determined previously (at paragraphs 62 and 68 of this Ruling respectively), the Swift.MV report are 'log book records' and 'odometer records' for the purposes of paragraph (a) of section 10A.

70. 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 Swift.MV report.

71. An employer using the Swift.MV 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 Swift.MV report meets the relevant requirements of section 10A.

**Does the Swift.MV report meet the relevant requirements of section 10B?**

72. Section 10B states:

**Section 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**

**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.

73. As determined previously (at paragraph 68 of this Ruling) the Swift.MV report will satisfy the definition of the term 'odometer records' in subsection 136(1). For similar reasons, it is considered that the Swift.MV report will meet the definition of 'odometer records' for the purposes of paragraph (a) of section 10B.

74. 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 Swift.MV report.

**Conclusion on whether the Swift.MV report meets the relevant requirements of section 10B**

75. An employer using the Swift.MV 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 Swift.MV report meets the relevant requirements of section 10B.

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

76. 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:*

TR 2006/10

*Legislative references:*

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

- FBTAA 1986 162G
- FBTAA 1986 162G(1)
- FBTAA 1986 162G(1)(b)
- FBTAA 1986 162H(1)
- FBTAA 1986 162K(2)(b)
- FBTAA 1986 162L(2)(b)
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*Other references:*

- The Macquarie Dictionary online
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