

# ***CR 2019/52 - Netstar Australia Pty Ltd telematics system - use for FBT car logbook record and odometer records***



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## Class Ruling

### Netstar Australia Pty Ltd telematics system – use for FBT car logbook record and odometer records

#### **❶ Relying on this Ruling**

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling

Further, if we think that this Ruling disadvantages you, we may apply the law in a way that is more favourable to you.

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#### **What this Ruling is about**

1. This Ruling sets out the tax consequences of using the Netstar GPS Tracking System for calculating the taxable value of a car fringe benefit using the cost basis method.
2. Full details of the Netstar GPS Tracking System are set out in paragraphs 11 to 32 of this Ruling.

**Note:** By issuing this Ruling, the ATO is not endorsing this product. Potential users must form their own view about the product.

#### **Who this Ruling applies to**

3. This Ruling applies to you if you are an employer who uses the Netstar Australia Pty Ltd telematics system (Netstar telematics system) for car logbook and odometer records.

#### **When this Ruling applies**

4. This Ruling applies from 1 April 2019 to 31 March 2024.

## Ruling

5. The Netstar telematics system 'FBT Logbook Report' satisfies the definition of 'log book records' in subsection 136(1)<sup>1</sup> provided:

- the report is for an applicable logbook 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.

6. The Netstar telematics system FBT Logbook Report satisfies the definition of 'odometer records' in subsection 136(1).

7. An employer in a logbook year of tax who uses the Netstar telematics system FBT Logbook Report 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 requirement in section 10A and is entitled to claim a reduction of operating costs.

8. An employer in a logbook year of tax who uses the Netstar telematics system FBT Logbook Report continuously for:

- the duration of the 'applicable log book period' as defined in subsection 162H(1), and
- does not use the Netstar telematics system FBT Logbook Report 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 Netstar GPS Tracking System reports, 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.

9. An employer in a non-logbook year of tax that uses the Netstar telematics system FBT Logbook Report 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.

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<sup>1</sup> All legislative references in this Ruling are to the *Fringe Benefits Tax Assessment Act 1986*.

10. An employer in a non-logbook year of tax who has used the Netstar telematics system 'FBT Logbook Report' in one of the previous four FBT years continuously for an 'applicable logbook 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 Netstar GPS Tracking System reports, 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.

## Scheme

11. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

12. Other information referenced is as follows:

- overview of Netstar System
- features of Netstar System
- sample Trip Report
- sample FBT Logbook Report
- sample FBT Summary Report, and
- group structure of the Netstar Group of Companies following the acquisition of Fleet Logistics Pty Ltd (Fleet Logistics).

13. Netstar Australia Holdings Pty Ltd acquired 100% of the shares of Fleet Logistics who traded as EZY2C in 2017. The EZY2C GPS Tracking System described in Class Ruling CR 2017/76 *Fringe benefits tax: employers who use the EZY2C telematics system (EZY2C GPS Tracking System) for car log book record and odometer record keeping requirements* issued to Fleet Logistics is now owned by Netstar Australia Pty Ltd (Netstar).

14. This telematics solution which is now owned by Netstar is exactly the same as that outlined in CR 2017/76 and the information provided in the original application to the Commissioner of Taxation (the Commissioner).

15. Netstar had developed a wide range of the most advanced GPS tracking devices and accessories as a means of recording car logbook entries. Solutions include 3G, Next G, Satellite and Hybrid (herein referred to as 'Netstar's telematics solution').

16. A key attribute of Netstar's telematics solution allows car locations to be accurately tracked (and remotely recorded) using GPS locations. This information feeds back to a

centralised database, which then allows the employers to view and download logbook and odometer records.

17. The Netstar telematics solution consists of an in-vehicle telematics device which has a built in GPS receiver that is used for capturing GPS locations. The in-vehicle telematics device is hardwired to the electronics system of the car or plugged into the OBDII Port.

18. The GPS locations are captured, then used to calculate odometer readings (distance travelled) of the particular car.

19. For each journey completed, the Netstar telematics device records:

- the date of the journey
- the time the journey starts and finishes
- the number of kilometres travelled, and
- the purpose of the journey as input by the driver.

20. Specifically, the Netstar telematics device:

- detects the turning on and off of the ignition of the car
- uses a GPS receiver to record and calculate data from the GPS satellite, and
- communicates with the server (which runs the Netstar software) via the 3G network.

21. In the event the Netstar telematics device is operating within an area in which 3G coverage is not available, it stores the data on-board and automatically transmits the stored data back to the centralised telematics platform (that is, the Netstar database) when access to 3G communication coverage is restored.

22. The Netstar telematics system provides customers with two easy options to capture business or private journey declarations for the purpose of electronic logbook journey reporting.

23. The functionality available to Netstar's customers is for each driver to use either Netstar's 'Mobile/tablet' platform (a mobile and tablet responsive portal) or logging into Netstar's online portal via its website to manually select whether a journey has been undertaken for business or private purposes.

24. An employee logs in via either Netstar's 'Mobile/tablet' platform or Netstar's online portal, and identifies themselves as the applicable driver of the car for that journey by linking their journey. In the event the telematics device is moved to another vehicle, customers contact Netstar to reactivate the device in the new (replacement) vehicle.

25. In the event that an employee does not input the nature of the particular journey undertaken (that is, for business or private purposes), the Netstar telematics system will automatically allocate the journey as being for private purposes.

### **Trip Report**

26. The employer can then use the information contained within the Netstar database to generate a Trip Report on a weekly basis at minimum or on demand as required, which details each individual journey undertaken by each vehicle.

27. The Trip Report provides the following information for each journey undertaken in the selected period:

- the start and end date of the logbook period
- the car description
- the start time and date of which each journey occurs
- the time and date on which the journey was completed
- the driving duration for the journey
- the stop duration between journeys
- the total distance for the journey
- the private distance for the journey
- the business distance for the journey
- the driver identification
- the status (purpose) of the journey
- the address (that is, full location address details for the journey)
- the total driving duration for the entire reporting period (per vehicle basis)
- the total distance for the entire reporting period (per vehicle basis)
- the total private distance for the entire reporting period (per vehicle basis), and
- the total business distance for the entire reporting period (per vehicle basis).

28. In relation to the trip purpose, each Netstar client can customise the trip purpose reason in the Trip Report to suit their own business. That is, Netstar clients may wish to have any number of trip purposes all relating to the business usage, for example client care visit, call out trip, delivery, etcetera.

29. An employer will use the Netstar system to produce, in English, a Trip Report for any selected period for each car that has the system fitted and/or each employee who uses the car that has the system fitted.

### **FBT Logbook Report**

30. Further to the paragraphs 26 to 29 of this Ruling, the employer can then use the information contained to generate a 'FBT Logbook Report' which provides details of the calculated business use percentages for the selected period.

31. The FBT Logbook Report provides:

- the start and end date of the logbook period
- the car registration number
- the car description including make/model and engine capacity
- the start time and date of which each journey occurs
- the time and date on which the journey was completed
- the start odometer reading and the end odometer reading for the journey

- the total distance for the journey
- the private distance for the journey
- the business distance for the journey
- the status (purpose) of the journey
- the journey purpose
- the total distance for the entire reporting period (per vehicle basis)
- the total private distance for the entire reporting period (per vehicle basis), and
- the total business distance for the entire reporting period (per vehicle basis).

32. Employers using the Netstar telematics solution will make an election to treat a current year of tax as a 'logbook year of tax'.

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**Commissioner of Taxation**

11 September 2019

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## Appendix 1 – Explanation

**❶** *This Explanation 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.*

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### Does the Netstar telematics system 'FBT Logbook Report' meet the relevant requirements of section 10A?

33. Section 10A states:

#### **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.

34. Section 162G(1) sets out various circumstances under which a particular year can be treated as a 'log book year of tax' as follows:

**[Conditions]** 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 particular car while it was held by a particular person (in this subsection called the '**provider**') during a particular period (in this subsection called the '**holding period**') in a year of tax (in this subsection called the '**current year of tax**'), the current year of tax is a log book year of tax of the employer in relation to the car if, and only if:

- (a) none of the previous 4 years was a log book year of tax of the employer in relation to the car;



- (b) the employer elects that the current year of tax be treated as a log book year of tax of the employer in relation to the car; or
- ...
- (c) the Commissioner causes a notice in writing to be served on the employer before the commencement of the current year of tax requiring the employer to treat the current year of tax as a log book year of tax of the employer in relation to the car.

35. It is accepted that employers using the Netstar telematics system 'FBT Logbook Report' will make an election under paragraph 162G(1)(b) to treat a current year of tax as a 'logbook year of tax'.

**Does the Netstar telematics system 'FBT Logbook Report' satisfy the requirements of the definition of 'log book records'?**

36. 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 particular 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.

37. 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.'

38. The Netstar telematics device collects all applicable information for each journey undertaken by a car (that is, the location of the start and end of a journey, date and time of the start and end of a journey, purpose of each journey, kilometres travelled as per the GPS co-ordinates), and automatically sends it to Netstar's centralised server.

39. The business use or private use details for the journey are input by each respective driver either through the use of Netstar's mobile/tablet platform or through Netstar's online portal. The employer can then use the Netstar system to produce, in English, a 'Trip Report' and 'FBT Logbook Report' for the selected period.

40. 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.

41. 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.'

42. The term 'odometer records', as defined in subsection 136(1) makes reference to 'odometer readings 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.

43. Each time the car is driven, the start and end odometer readings for the journey are automatically calculated by the Netstar telematics system from the GPS and other telemetry data recorded.

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

45. The 'Trip Report' and 'FBT Logbook Report' both record the following:

- the date and time that a journey began and ended
- the number of kilometres travelled in the course of a journey, and
- the purpose of the journey

thus satisfying paragraphs (c), (e) and (f) of the definition of 'log book records' in subsection 136(1).

46. It is considered that the Netstar telematics system 'FBT Logbook Report' is 'a daily logbook 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.

47. The report generated by the Netstar telematics system 'FBT Logbook Report' satisfies the definition of 'log book records' in subsection 136(1) provided the report is completed for an 'applicable log book period'.

48. The definition of 'log book records' in subsection 136(1) also requires that each business journey recorded in the logbook records be in relation to a 'period'. Paragraph 10A(a) refers to 'log book records' being maintained for an 'applicable log book period'.

49. The term 'applicable log book period' is defined in subsection 162H(1) 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.

50. It is accepted that all employers using the 'FBT Logbook Report' produced by the Netstar telematics system in relation to any car fringe benefits they provide will maintain the necessary records for the duration of the 'applicable log book period'.

51. It is accepted that the Netstar telematics system 'FBT Logbook Report' satisfies all the relevant requirements of the definition of 'log book records' as defined in subsection 136(1).

## Does the Netstar telematics system 'FBT Logbook Report' satisfy the requirements of the definition of 'odometer records'?

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 'FBT Logbook 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.

55. As stated in paragraph 50 of this Ruling, it is accepted that all employers using the Netstar telematics system 'FBT Logbook Report' in relation to any car fringe benefits they provide will maintain the necessary records for the duration of the 'applicable log book period'.

56. As stated in paragraph 46 of this Ruling, the report provided by the Netstar telematics system 'FBT Logbook Report' 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'.

57. It is considered that the Netstar telematics system 'FBT Logbook Report' satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

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

59. The Netstar telematics system 'FBT Logbook 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 Netstar telematics system 'FBT Logbook Report' 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 Netstar telematics system 'FBT Logbook Report' meet the relevant requirements of section 10B?**

61. 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.

62. Where the Netstar GPS Tracking System is used continuously for the whole of the holding period, the FBT Logbook Report will meet all the necessary requirements of section 10B in a non-logbook 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.

63. An employer in a non-logbook year of tax who does not use the Netstar telematics system 'FBT Logbook Report' 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 Netstar telematics system reports, 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.

## References

*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

CR 2017/76; TR 2006/10

*Legislative references:*

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- FBTAA 1986
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- FBTAA 1986 10B
- FBTAA 1986 136
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- FBTAA 1986 162C

- FBTAA 1986 162G
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- *The Macquarie Dictionary*, Macquarie Dictionary Publishers 2019, on-line edition, viewed 21 August 2019.

ATO references

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