MT 2024 - Fringe benefits tax : dual cab vehicles eligibility for exemption where private use is limited to certain work-related travel

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[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

The listings of vehicles in Fringe benefits tax - exempt motor vehicles have been replaced with information to help employers work out when the use of certain motor vehicles is exempt from FBT, and what types of vehicles may qualify for the exemption.

This document has changed over time. This is a consolidated version of the ruling which was published on *22 October 2008*

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TAXATION RULING NO. MT 2024

FRINGE BENEFITS TAX : DUAL CAB VEHICLES
ELIGIBILITY FOR EXEMPTION

F.O.I. EMBARGO: May be released

REF H.O. REF: L85/10-3 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1210185	FRINGE BENEFITS TAX	FRINGE BENEFITS TAX ASSESSMENT ACT: S.8, 47 and 136

PREAMBLE Generally speaking, a liability for FBT arises where an employer's motor vehicle is used by an employee for private purposes or is available for the private use of an employee. However, under sub-sections 8(2) and 47(6) of the Fringe Benefits Tax Assessment Act ("the Act"), a liability for FBT will not arise where the private use of certain vehicles by employees during a particular year of tax is limited to certain work-related travel and non-work-related use that is minor, infrequent and irregular. This would include the occasional use of the vehicle to remove domestic rubbish. (Note for the purpose of this Ruling work-related use includes work-related travel and private use that is minor, infrequent and irregular). Work-related travel is defined in sub-section 136(1) of the Act to be travel between the employee's residence and place of employment or other place at which employment duties are performed and any travel that is incidental to travel in the course of performing duties of employment.

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2. This Office has been asked whether vehicles known as dual cabs are capable of qualifying for this work-related use exemption. Broadly, dual cabs are variants of conventional goods vehicles under which additional seating positions are provided behind the driver and front-passenger seats. They share a common chassis to which the single or dual passenger cab and alternate tray sections may be fitted.

3. Vehicles that may qualify for the work related use exemption under subsection 47(6) are those that are not classified as a car (as defined in subsection 136(1)) for the purposes of Division 2 of Part III of the Act, that is, vehicles other than those which are designed to carry a load of less than one tonne and fewer than 9 passengers.

4. Alternatively, under sub-section 8(2), a vehicle may qualify for the exemption if, while classified as a car for the purposes of Division 2 of Part III of the Act, it is a taxi, panel van, utility truck or any other road vehicle that, while designed to carry a load of less than one tonne, is not designed for the principal purpose of carrying passengers.

RULING 5. The classification of motor vehicles under the FBT law

was expressed in the same terms as that used in the income tax law e.g., former subsection 82AF(2) of the Income Tax Assessment Act 1936, which applied to exclude from the income tax investment allowance certain motor vehicles. As such, the interpretation of those provisions provides an appropriate base from which to determine the operation of the FBT law.

6. Dual cabs, particularly those of lesser load capacities, are commonly fitted with styled steel well bodies and are often referred to as "utes" in advertising material. An initial question to be determined therefore in deciding the eligibility of dual cabs for the work-related use exemption is whether they qualify as "utility trucks" within the meaning of sub-section 8(2). If dual cabs are in fact utility trucks within the meaning of sub-section 8(2), it follows that they would qualify for the concession afforded by that sub-section irrespective of their load or passenger carrying design features.

7. The meaning of utility truck as was expressed at former subsection 82AF(2) of the Income Tax Assessment Act 1936 was considered in Case M10, 80 ATC 77; Case 92, 23 CTBR(NS) 869. Based on that decision, the term utility truck as used in subsection 8(2) is seen as being restricted to derivatives of motor cars. Crew cabs could not be so described (see description in the preamble).

8. It follows that crew cabs will be capable of qualifying for the work-related use exemption only if either of the following tests are satisfied -

(a) they are designed to carry a load of one tonne or more, or more than eight passengers (sub-section 47(6)); or

(b) while having a designed load capacity of less than one tonne, they are not designed for the principal purpose of carrying passengers (sub-section 8(2)).

9. Current model crew cabs have a maximum seating capacity of seven and, as such, could not qualify under the second limb of (a).

10. Whether a particular vehicle is designed to carry a load of one tonne or more is to be determined on the same basis as that applied in determining eligibility for the former income tax investment allowance.

11. Consistent with that approach, the designed load capacity of a motor vehicle is to be taken as the gross vehicle weight as specified on the compliance plate by the manufacturer (broadly, the maximum all-up loaded weight), reduced by the basic kerb weight of the vehicle. For this purpose, basic kerb weight is synonymous with unladen weight, as specified in the Australian Design Rules, being the weight of the vehicle with a full tank of fuel, oil and coolant together with spare wheel, tools (including jack) and installed options. It does not include the weight of goods or occupants.

12. In the case of cab/chassis vehicles, the designed load capacity is to be ascertained after the body has been fitted to the vehicle, i.e. to satisfy the one tonne test, the margin between the gross vehicle weight and the basic kerb weight must not be less than one tonne plus the weight of the body which is ultimately attached to the vehicle.

13. Where, on the application of this test, it can be concluded that a particular dual cab model has a designed load capacity of one tonne or more, there will be no FBT liability if employee use of the vehicle during a particular FBT year consists solely of eligible work-related travel or private travel which is minor, infrequent and irregular.

14. As previously mentioned, a dual cab that has a designed load carrying capacity of less than one tonne may still qualify for the work-related use exemption, under sub-section 8(2), if the vehicle is not designed for the principal purpose of carrying passengers. It is considered that the appropriate basis for determining this issue is whether or not the majority of the designed load capacity is attributable to passenger carrying capacity. It is understood that this approach is consistent with that adopted under the Australian Design Rules in determining what is a passenger vehicle.

15. For this purpose the designed passenger carrying capacity is to be determined by multiplying the designed seating capacity (including the driver's) by 68 kg, which is the figure adopted for the purposes of the application of the Australian Design Rules.

16. If the total passenger weight so determined exceeds the remaining "load" capacity, the vehicle is to be treated as being designed for the principal purpose of carrying passengers and as such ineligible for work-related use exemption.

17. By way of illustration, if a vehicle has a gross vehicle weight of 2,000 kgs, a basic kerb weight of 1,400 kgs, and has a designed seating capacity of five, the vehicle would be considered to be a vehicle designed principally for the carriage of passengers. This is because the total load capacity is 600 kgs of which the majority, 340 kgs, would be absorbed by its designed passenger carrying capacity.

18. The position of current release dual cab vehicles has been reviewed on the basis of published information made available to this office. The results are detailed in the attachment.

19. Of those vehicles listed as being eligible for the work-related use exemption, the majority do so on the basis that they have a designed load capacity of one tonne or more. The remaining vehicles satisfy the requirement of not being designed principally for the carriage of passengers.

20. Accordingly, provided that employee use of these dual cab vehicles in a particular FBT year is restricted to travel to and from work and any travel that is incidental to travel in the course of performing duties of employment, there will be no FBT liability.

21. The models listed as being ineligible for the concession are designed to carry a load of less than one tonne and, on the application of the test detailed above, are designed principally for the carriage of passengers.

COMMISSIONER OF TAXATION
1 September 1986

APPENDIX A
[Withdrawn]

Appendix B

[Withdrawn]
APPENDIX C
[Withdrawn]
APPENDIX D
[Withdrawn]