TD 98/10 - Fringe benefits tax: what are the rates to be applied on a cents per kilometre basis for calculating the taxable value of a fringe benefit arising from the private use of a motor vehicle other than a car for the fringe benefits tax (FBT) year commencing on 1 April 1998?

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Generated on: 30 November 2026, 06:37:41 AM

Taxation Determination

Fringe benefits tax: what are the rates to be applied on a cents per kilometre basis for calculating the taxable value of a fringe benefit arising from the private use of a motor vehicle other than a car for the fringe benefits tax (FBT) year commencing on 1 April 1998?

Preamble

The number, subject heading, date of effect and paragraph 1 of this Taxation Determination are a 'public ruling' for the purposes of Part IVAAA of the *Taxation Administration Act 1953* and are legally binding on the Commissioner. The remainder of the Determination is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain how a Determination is legally or administratively binding.

Date of effect

This Determination applies for the FBT year commencing on 1 April 1998. However, it does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

1. The rates to be applied where the cents per kilometre basis is used for the fringe benefits tax year commencing on 1 April 1998 are:

Engine Capacity	**Rate per kilometre**
0 - 2500cc	33 cents
Over 2500 cc	39 cents
Motor cycles	10 cents.

2. An employee's right to use a car for private purposes constitutes a car fringe benefit under the *Fringe Benefits Tax Assessment Act 1986* (FBTAA). Where an employee is entitled to use a motor vehicle **other than a car**, this gives rise to a residual benefit under that Act. For these purposes, in subsection 136(1) of the FBTAA, 'car' means:

> 'a motor vehicle (including a vehicle known as a four wheel drive vehicle), being:
>
> (a) a motor car, station wagon, panel van, utility truck or similar vehicle, designed to carry a load of less than one tonne; or
>
> (b) any other road vehicle designed to carry a load of less than 1 tonne or fewer than 9 passengers;
>
> but does not include a motor cycle or similar vehicle'.

3. Taxation Ruling MT 2034 outlines a number of methods that may be used to value the benefit of the right to use an employer's motor vehicle **other than a car**. For example, MT 2034 outlines acceptable calculation methods to determine the value of the benefit arising from the use of a motor cycle or a vehicle designed to carry a load of one tonne or more.

4. MT 2034 indicates that one method of valuing the benefit is to multiply the number of private kilometres travelled by employees in a vehicle during a year by a cents per kilometre rate. The effect of paragraphs 15 and 16 of MT 2034 is that this method can only be used where there is extensive business use of the vehicle.

5. The cents per kilometre rates set out in this Determination are those that applied for the year commencing on 1 April 1997, modified to reflect the movement in the Consumer Price Index. (The rates that applied for the year commencing on 1 April 1997 were set out in Taxation Determination TD 97/16.)

Commissioner of Taxation
13 May 1998

FOI INDEX DETAIL: Reference No. I 1015631 Not previously released in draft form
Related Determinations: TD 93/59; TD 94/22; TD 95/19; TD 96/26; TD 97/16
Related Rulings: MT 2034
Subject Ref: FBT; FBT motor vehicle; FBT motor vehicle definition; FBT taxable value; private use of motor vehicles other than cars; residual fringe benefits
Legislative Ref: FBTAA Pt III Div 12; FBTAA 136(1)
Case Ref:
ATO Ref: NAT 95/2688-9; FBT 154
ISSN 1038 - 8982