

CR 2012/48 - Income Tax: Car expense deductions: using the TeleMatiXx reporting system to satisfy log book requirements

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Class Ruling

Income Tax: Car expense deductions: using the TeleMatiXx reporting system to satisfy log book requirements

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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 28-12 of the *Income Tax Assessment Act 1997* (ITAA 1997);
- Section 28-125 of the ITAA 1997; and
- Section 28-140 of the ITAA 1997.

All references in this Ruling are to the ITAA 1997 unless otherwise stated.

Class of entities

3. The class of entities to which this Ruling applies is those individual clients and partnership clients (who include at least one individual) of Fleet Partners Pty Ltd who use the TeleMatiXx reporting system to fulfil their car log book record keeping requirements 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 9 to 28 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.

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Date of effect

8. This Ruling applies from 23 September 2011. 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

9. 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 23 September 2011; and
- information provided subsequently by emails dated 11 November 2011, 24 November 2012 and 10 February 2012.

10. Fleet Partners Pty Ltd has developed the high integrity TeleMatiXx reporting system as a means of recording various types of data about a car's journey.

11. Individual clients and partnership clients (who include at least one individual) of Fleet Partners Pty Ltd who commence to use a car for income-producing purposes and use the TeleMatiXx reporting system for car log book records will utilise the TeleMatiXx reporting system for a minimum continuous period of 12 weeks.

12. These individual and partnership clients will also utilise the TeleMatiXx reporting system at the start and end of the relevant periods that they use the cars for income-producing purposes.

13. Elements of the TeleMatiXx reporting system include the electronic data key (data key), the information system (information system) and the FBT Trip Analysis Reports (TeleMatiXx reports).

The data key

14. The data key is assigned to a user's car through a registration process. Only when this registration process has been successfully undertaken can data from the data key be uploaded to the information system. The registration process ensures that there is a 1 data key to 1 car relationship.

15. The data key is wireless and attaches to a car USB port or cigarette lighter outlet.

16. The data key uses a global positioning satellite (GPS) signal to record latitude, longitude, time and date data. This is collected every 15 seconds.

17. The data key uses the GPS signal to record the start and finish locations, the duration and the distance travelled on each journey by the car.

18. The data is uploaded onto the system by unplugging the data key and plugging it into a computer to transfer the collected trip data onto the information system.

The information system

19. Regular uploads of the collected trip data from the data key to the information system allows continual analysis of that data. The data uploaded is mapped and can show actual locations/roads.

20. The purpose of each trip is manually input by the user at the time of upload. The information system can be pre-programmed to have up to 9 different narrations for the purpose of each journey plus the capability to input a different purpose where required.

21. At the time of initial registration, and also at the time of each upload, thereafter, the user manually inputs the current car odometer reading.

22. The information system then automatically calculates the opening and closing odometer readings for each trip using the GPS distance travelled data collected by the key.

23. When the current car odometer reading is manually loaded onto the information system it is checked against the current odometer reading as calculated by the information system and any difference is treated as non-business use of the car.

24. The information system can retain, for up to 90 days, data on the purpose, the start date and time, the start location, the end date and time, the end location, the kilometres travelled, the trip duration, the maximum speed and the opening and closing odometer records for each car journey.

The TeleMatiXx reports

25. The TeleMatiXx reporting system currently produces the 'TeleMatiXx standard report'. If required, the TeleMatiXx reporting system can also produce the 'TeleMatiXx extended report' which contains additional information to that of the TeleMatiXx standard report.

26. The TeleMatiXx standard report produces the following details for each car journey:

- car registration;
- trip type (that is, the purpose of the journey);
- start date and time;
- start location;
- end date and time;
- end location;
- distance travelled;
- trip duration; and
- maximum speed.

27. The TeleMatiXx extended report produces the following details for each car journey:

- car registration;
- trip type (that is, the purpose of the journey);
- start date and time;
- start location;
- end date and time;
- end location;
- distance travelled;
- trip duration;
- maximum speed;
- opening odometer readings; and
- closing odometer readings.

28. The TeleMatiXx reporting system is also capable of producing additional detailed analysis of the car's use during any given period.

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

Ruling

29. The TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not a document that satisfies the requirements for keeping a log book set out in section 28-125.

30. The TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not a document that satisfies the requirements for keeping odometer records for a period set out in section 28-140.

31. The TeleMatiXx standard report currently produced by the TeleMatiXx reporting system is not a document that satisfies the requirements to claim a deduction for car expenses under section 28-12 using the 'log book' method.

32. The TeleMatiXx extended report when produced by the TeleMatiXx reporting system satisfies the requirements for keeping a log book set out in section 28-125.

33. The TeleMatiXx extended report when produced by the TeleMatiXx reporting system satisfies the requirements for keeping odometer records set out in the purposes of section 28-140.

34. The TeleMatiXx extended report when produced by the TeleMatiXx reporting system is capable of being a document that satisfies the requirements to claim a deduction for car expenses using the 'log book' method for the purposes of section 28-12.

Commissioner of Taxation

4 July 2012

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.*

Claiming a deduction for car expenses

35. Division 28 sets out the rules for working out a deduction for a car expense if you own or lease a car or hire a car under a hire purchase agreement.

36. Section 28-10 states that Division 28 applies to an individual and also applies to a partnership that includes at least one individual.

37. Section 28-12 states the following regarding car expenses:

28-12 Car expenses

- (1) If you owned or leased a *car, you can deduct for the car's expenses an amount or amounts worked out using one of 4 methods.

Note 1: For particular types of cars taken on hire you cannot use one of the 4 methods: see section 28-165.

Note 2: In certain circumstances the lessee of a luxury car is taken to be its owner (see subsection 242-15(2)).

Note 3: In certain circumstances (for example, under a hire purchase agreement) the notional buyer of property is taken to be its owner (see subsection 240-20(2)).

- (2) You must use one of the 4 methods unless an exception applies. If you can't use any of the methods, you can't deduct anything for the *car expenses.

38. Therefore, to claim a deduction for car expenses you must choose one of 4 methods for working out the relevant amount (unless an exception applies) and if you can't use any of the 4 methods you can't deduct anything for car expenses.

39. Section 28-15 sets out the 4 methods that can be used for working out a deduction for car expenses and states that some of the methods have eligibility requirements. One of the available methods described in section 28-15 is the 'log book' method.

Does the TeleMatiXx standard report satisfy the requirements for keeping a log book?

40. Section 28-125 sets out the following requirements for keeping a log book:

28-125 How to keep a log book

...

- (2) A journey is recorded by making in the log book an entry specifying:
- (a) the day the journey began and the day it ended;
 - (b) the *car's odometer readings at the start and end of the journey;
 - (c) how many kilometres the car travelled on the journey;
 - (d) why the journey was made.

The record must be made at the end of the journey or as soon as possible afterwards.

...

- (4) The following must be entered in the log book:
- (a) when the log book period begins and ends;
 - (b) the *car's odometer readings at the start and the end of the period;
 - (c) the total number of kilometres that the car travelled during the period;
 - (d) the number of kilometres that the car travelled, in the course of producing your assessable income, on journeys recorded in the log book;
 - (e) the number of kilometres referred to in paragraph (d), expressed as a percentage of the total number referred to in paragraph (c).

Each of the entries must be made at or as soon as possible after the start or end of the period, as appropriate.

- (5) Each entry in the log book must be in English.

41. Paragraph 28-125(2)(b) requires that entries be made of the cars odometer readings at the start and end of the journey.

42. Paragraph 28-125(4)(b) requires that entries be made of the car's odometer readings at the start and end of the period.

Does the TeleMatiXx standard report satisfy the requirements for keeping car odometer readings at the start and end of the journey?

43. 'Odometer' is not defined in the ITAA 1997 or the FBTA, but the *Macquarie Dictionary*, online edition, defines the term as being 'an instrument for measuring distance passed over, as by a motor vehicle'.

44. It is considered that, while 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.

45. 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 ITAA legislative requirements.

46. Nonetheless, the TeleMatiXx standard report does not provide any entries setting out the odometer readings for the beginning or for the end of the car journey.

47. Irrespective of the fact that the TeleMatiXx reporting system has a sophisticated method for calculating the opening and closing odometer data for each car trip and that such calculated odometer data is regularly verified against the actual car closing odometer readings these facts alone do not obviate the legislative requirement for the odometer readings at the beginning and end of the car journey to be recorded in a log book.

48. The ITAA 1997 does not provide the Commissioner with any general discretion to waive the legislative requirement for the odometer readings at the beginning and end of the car journey to be recorded in a log book.

49. However, section 900-195 does state that the Commissioner has a discretion to review a failure to substantiate expenses for which a deduction is claimed in the following limited circumstances:

900-195 Commissioner's discretion to review failure to substantiate

Not doing something necessary to follow the rules in this Division does not affect your right to a deduction if the nature and quality of the evidence you have to substantiate your claim satisfies the Commissioner:

- (a) that you incurred the expense; and
- (b) that you are entitled to deduct the amount you claim.

50. Nonetheless, the requirement to substantiate expenses is different from, and in addition to, the requirement for the odometer readings at the beginning and end of the car journey to be recorded in a log book.

51. Consequently, it is considered that there can be no possible exercise of the Commissioner's discretion under section 900-195 in relation to a failure to keep odometer readings at the beginning and end of the car journey in a log book.

52. The omission of car odometer readings from the TeleMatiXx standard report means that the requirements of paragraph 28-125(2)(b) will not be not satisfied.

53. The above view is not altered by the probability that the necessary information will have been calculated or otherwise electronically retained within the TeleMatiXx information system.

Does the TeleMatiXx standard report satisfy the requirements for keeping car odometer readings at the start and end of the period?

54. Under section 28-110, for the first year in which car expenses are claimed using the log book method, the log book must be kept for a minimum continuous period of at least 12 weeks at any time in the income year.

55. Additionally, in a 'non-log book' year the relevant 'period' is the period the person held the car during the relevant income year.

56. It is a requirement in paragraph 28-125(4)(b) that entries are made of the car's odometer readings at the start and end of the period. Therefore, car odometer readings must be kept for the start and end of the relevant 12 week period.

57. Further, section 28-135 states that Subdivision 28-H sets out how to keep odometer records for a car during a particular period. Section 28-140 is the operative provision that sets out how to keep odometer records for a car for a period. Section 28-140 states:

SECTION 28-140 How to keep odometer records for a car for a period

28-140(1)

Odometer records for a period are kept in the form of a document in which the following are entered:

- (a) the car's odometer readings at the start and the end of the period;
- (b) ...

28-140(2)

Each entry under subsection (1) must be in English and must be made at or as soon as possible after the start or end of the period, or the end of the specified day, as appropriate.

28-140(3)

58. In this case the TeleMatiXx standard report does not fulfil the legislative requirement by way of paragraph 28-125(2)(b) and therefore the omission of car odometer readings from the TeleMatiXx standard report means that the requirements of paragraph 28-125(4)(b) will also not be satisfied.

59. Further, in the absence of car odometer readings the requirements of paragraph 28-140(1)(a) are not met.

60. The above view is not altered by the probability that the necessary information will have been calculated or otherwise electronically retained within the TeleMatiXx information system.

Conclusion on whether the TeleMatiXx standard report satisfies the requirements for keeping a log book?

61. The TeleMatiXx standard report does not satisfy the particular requirements of either paragraph 28-125(2)(b) or paragraph 28-125(4)(b), therefore, the TeleMatiXx standard report does not satisfy the requirements for keeping a log book set out in section 28-125.

62. As the TeleMatiXx standard report does not satisfy the requirements for keeping a log book for the purposes of section 28-125 this means, in turn, that the TeleMatiXx standard report cannot be used to work out the relevant amount for car expenses for the purposes of section 28-12. Therefore, no deduction for car expenses can be claimed under the log book method using the TeleMatiXx standard report.

Conclusion on whether the TeleMatiXx standard report satisfies the requirements for keeping odometer records for the start and end of the period?

63. As the TeleMatiXx standard report fails to satisfy the requirements of paragraph 28-140(1)(a) this means that an essential condition of section 28-140 is not met.

64. Therefore, the TeleMatiXx standard report does not satisfy the requirements for keeping odometer records for a period for the purposes of section 28-140.

Does the TeleMatiXx extended report satisfy the requirements for keeping a log book?

65. As explained above, at paragraphs 41 and 42 respectively, paragraph 28-125(2)(b) requires that entries be made of the car's odometer readings at the start and end of the journey and paragraph 28-125(4)(b) requires that entries be made of the car's odometer readings at the start and end of the period.

Does the TeleMatiXx extended report satisfy the requirements for keeping car odometer readings at the start and end of the journey?

66. The TeleMatiXx extended report not only contains all the information detailed in the TeleMatiXx standard report but also provides entries setting out the odometer reading at the beginning and at the end of each car journey.

67. The fact that such odometer readings may have been calculated by the TeleMatiXx information system rather than recorded from the car's odometer does not prevent the requirements of paragraph 28-125(2)(b) being satisfied.

68. Provided a device or system, other than the car's own odometer, used to determine or otherwise calculate odometer readings is of sufficient integrity it is accepted that such a device or system can meet the relevant ITAA 1997 legislative requirements.

69. Therefore, it is accepted that the opening and closing odometer readings for each car journey detailed on the TeleMatiXx extended report satisfies the requirements of paragraph 28-125(2)(b).

Does the TeleMatiXx extended report satisfy the requirements for keeping car odometer readings at the start and end of the period?

70. As discussed previously, at paragraph 56, under paragraph 28-125(4)(b) the relevant 'period' for keeping odometer readings is the start and end of the log book 12 week period.

71. As also discussed previously, at paragraph 55, in a 'non-log book' year the relevant 'period' is the period the person held the car during the relevant income year.

72. Due to the fact that the TeleMatiXx extended report is capable of producing the opening and closing odometer readings for each car journey during the applicable log book period, it is also capable of producing odometer readings at the start and end of the log book 12 week period.

73. Therefore, it is accepted that TeleMatiXx extended report is capable of satisfying the requirements of paragraph 28-125(4)(b).

Does the TeleMatiXx extended report satisfy the remaining requirements of section 28-125?

74. The TeleMatiXx extended report produced by the TeleMatiXx reporting system details the information required by paragraphs (a), (c) and (d) of subsection 28-125(2).

75. It is accepted, that the integrity of the TeleMatiXx reporting system is such that the requirements of paragraphs (a), (c) and (d) of subsection 28-125(2) will be met.

76. However, subsection 28-125(2) also requires that the relevant records must be made at the end of the car journey or as soon as possible afterwards.

77. Although it is expected that normally such entries would be made in the log the same day as the car journey was undertaken, it is accepted that in situations where it is not practical to generate a hard copy of a log on a daily basis the period for making such entries may be extended.

78. Therefore, provided the necessary entries are made and a hard copy of the report produced at least weekly, it is considered that the requirement that the relevant records must be made at the end of the car journey or as soon as possible afterwards will be met.

79. It is also accepted that the TeleMatiXx extended report is capable of meeting the requirements of paragraphs (a), (c), (d) and (e) of subsection 28-125(4).

80. Subsection 28-125(4) also requires that each of the entries must be made at or as soon as possible after the start or end of the period, as appropriate. However, it is accepted that this particular timing requirement is capable of being met by users of the TeleMatiXx extended report.

81. It is further accepted that the TeleMatiXx extended report will satisfy the subsection 28-125(5) requirement that each entry must be in English.

82. Therefore, it is accepted that, in the absence of any evidence to the contrary in a particular case, the remaining requirements of section 28-125 will be met by users of the TeleMatiXx extended report.

Conclusion on whether the TeleMatiXx extended report satisfies the requirements for keeping a log book?

83. As the TeleMatiXx extended report satisfies the requirements of paragraph 28-125(2)(b), paragraph 28-125(4)(b) and is capable of satisfying the remaining requirements of section 28-125 the TeleMatiXx extended report satisfies the requirements for keeping a log book for the purposes of section 28-125.

Can a deduction for car expenses be claimed under the log book method using the TeleMatiXx extended report?

84. As the TeleMatiXx extended report satisfies the requirements for keeping a log book for the purposes of section 28-125, the TeleMatiXx extended report can be used to work out the relevant amount for car expenses for the purposes of section 28-12.

85. Therefore, a deduction for car expenses can be claimed under the log book method using the TeleMatiXx extended report.

Conclusion on whether the TeleMaTiXx extended report satisfies the requirements for keeping odometer records for the start and end of the period?

86. As the TeleMaTiXx extended report is capable of meeting the requirements of paragraph 28-140(1)(a) this means that section 28-140 is capable of being met provided all remaining requirements of that section are also met by users of the TeleMaTiXx extended report.

87. Therefore, in the absence of any evidence to the contrary in a particular case, the TeleMaTiXx extended report satisfies the requirements for keeping odometer records for a period for the purposes of section 28-140.

Appendix 2 – Detailed contents list

88. The following is a detailed contents list for this Ruling:

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 97/24; TR 2006/10

Subject references:

- log book
- log book method
- odometer records

Legislative references:

- ITAA 1997 Div 28
- ITAA 1997 28-10
- ITAA 1997 28-12

- ITAA 1997 28-15
- ITAA 1997 28-110
- ITAA 1997 28-125
- ITAA 1997 28-135
- ITAA 1997 28-140
- ITAA 1997 900-195
- TAA 1953
- Copyright Act 1968

Other references:

- ATO ID 2002/925
- The Macquarie Dictionary, [multimedia] version 5, 1/10/01;
- PS LA 2005/7

ATO references

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