


CR 2013/54 - Fringe benefits tax: employer clients of Mercurien Limited who use the BetterDriver telematics and reporting system for car log book records and for odometer records.

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Class Ruling

Fringe benefits tax: employer clients of Mercurien Limited who use the BetterDriver telematics and reporting system for car log book records and for odometer records.

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❶ This publication provides you with the following level of protection:

This publication (excluding appendices) 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 Mercurien Limited (Mercurien) who use the BetterDriver telematics and reporting system (BetterDriver system) 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 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.

Date of effect

7. This Ruling applies from 10 May 2013. 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

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 10 May 2013; and
- information provided in email dated 31 May 2013.

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. Mercurien has developed the BetterDriver system as a means of recording and reporting on information about journeys undertaken by a car.

10. The BetterDriver system can record, and provide various reports on, the business use of a car to enable the calculation of the business use percentage for determining the taxable value of a car fringe benefit under the cost basis method (a.k.a. the 'operating cost method').

11. The BetterDriver system consists of:

- an on-board unit (OBU) that is placed in the car to capture journey details;
- a software application running on a central server that securely stores, processes and reports journey details; and
- a graphical user interface (GUI) that enables the employer and car driver to interact with the software application, to augment journey details with car and driver details, journey purpose information and supplementary odometer readings.

12. The OBU is a high integrity Global Positioning Satellite (GPS) device configured as a GPS based odometer measuring time of journey, start/stop and distance travelled.

13. The OBU contains a GPS module, internal sensors, secure digital non-volatile memory, anti-tamper mechanisms, a communication module (modem), Subscriber Identification Module (SIM) card, a battery and a power socket. When installed the OBU receives external power from either the car's 12 volt or OBD-II (On Board Diagnostic) port.

14. The employer uses administrator level access to configure the OBU for the car and driver, using a GUI to the client application. This involves entering of the following data in respect of the OBU:

- details of car, registration, make and model, and (optional) engine size;
- name of driver; and
- email address of driver for notifications.

A login and password are provided to the driver.

15. The OBU is live whenever the car's ignition is turned on, the OBU is plugged in and the GPS device has fixed on its current location. The OBU will transmit information whenever it is live.

16. A registration process must be undertaken before the driver can access the journey data that is transmitted and categorise those journeys for use in the BetterDriver system log book report.

17. The registration process involves input of an initial baseline odometer reading to the central server, via the GUI to the client application. This odometer reading is to be taken manually by the driver or employer, from the car's in-built odometer.

18. Each time the car is driven, the OBU continuously samples sensor values and records them to a data log. The data log captures the journey details of start date, start time, start GPS location, end date, end time and end GPS location.

19. The OBU odometer readings measure distance according to changes in GPS location.

20. The data log records and initial baseline odometer readings are used to generate OBU odometer readings for each car journey. The data log is transmitted via the Global System for Mobile (GSM) network to a secure central server for storage and processing.

21. Following each car journey, or as soon as reasonably practicable afterwards (configurable by the employer as trip-by-trip, daily, or weekly, to a maximum of 7 days), the driver receives an automated trip notification (typically by email) asking the driver to login to the BetterDriver system software application and assign a purpose to the car journey.

22. Using a combination of check boxes and pull-down menus, the driver may select a detailed business purpose from a pre-configured list. Alternatively, the driver may select that the trip had a private use. In this case, no more details are required.

23. The logging period defaults to 12 weeks, commencing from the date of registration of the OBU. If required, the employer administrator can override the automatic 12 week logging period.

24. On completion of the required logging period, the employer administrator notifies the driver that the logging period is at an end and asks the driver to record the current time, date and odometer reading, and supply it to the system.

25. The BetterDriver system can provide various kinds of reports, one of which is a 'log book report.'

26. Before generating a log book report, the BetterDriver system validates the car journey records to ensure consistency of the data by comparing the total distance travelled, as measured by the OBU, to total distance between the baseline odometer readings (initial and final), which are based on the car's inbuilt odometer.

27. If the total distance measured by the OBU and the total distance determined from the car's odometer differ by more than a pre-determined amount a warning message is displayed and the employer administrator is given the choice of whether to accept the variation using the higher total kilometres travelled figure, extending the logging period or restarting the logging period.

28. The log book report provides the following information in English as either a Microsoft Excel file or as a PDF file:

- starting and ending date of logging period;
- opening and closing odometer readings for logging period;

- total distance in kilometres travelled;
- business distance in kilometres travelled;
- percentage business use (calculated as business distance over total distance);
- the dates on which each car journey began and ended;
- the OBU odometer readings at the start and end of each car journey;
- the distance of each car journey travelled in kilometres; and
- the purpose of each car journey.

Ruling

29. The BetterDriver system log book report is a document that satisfies the definition of 'log book records' in subsection 136(1).

30. The BetterDriver system log book report is a document that satisfies the definition of 'odometer records' in subsection 136(1).

31. An employer using the BetterDriver system log book 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 BetterDriver system log book report meets the requirements of section 10A.

32. An employer using the BetterDriver system log book 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 BetterDriver system log book report meets the requirements of section 10B.

Commissioner of Taxation

24 July 2013

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 FBTAA?

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

34. 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 either:

- (i) nil if, under sections 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; or
- (ii) the business use percentage applicable to the car for the holding period; and

R is the amount (if any) of the recipient's payment.

35. 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 or section 10B, as applicable.

Does the BetterDriver system log book report meet the relevant requirements of section 10A?

36. Section 10A states:

SECTION 10A

10A NO REDUCTION OF OPERATING COST IN A LOG BOOK YEAR OF TAX UNLESS LOG BOOK RECORDS AND ODOMETER RECORDS ARE MAINTAINED

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) ...
- (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.

37. 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 BetterDriver 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'.

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

Does the BetterDriver system log book report satisfy the requirements of the definition of 'log book records'?

39. 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;
- (g) (Omitted by No 145 of 1995)
- (h) (Omitted by No 145 of 1995)
- (i) (Omitted by No 145 of 1995)

is made in the English language at, or as soon as reasonably practicable after, the end of the journey.

40. 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 reasonable practical after, the end of the journey'.

41. The BetterDriver system sends an automated notification to the driver following each car journey, or as soon as reasonably practical afterwards, to login to the BetterDriver system software application and assign a purpose to the relevant car journey.

42. The BetterDriver system log book report provides its information in English as either a Microsoft Excel file or as a PDF file.

43. It is considered that a log book report provided by the BetterDriver 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 practical after, the end of the journey'.

44. 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 43).

45. 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.

46. 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'.

47. 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.

48. 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.

49. Each time the car is driven, the OBU continuously samples sensor values and records them to a data log. The data log captures the journey details of start date, start time and start GPS location, as well as end date, end time and end GPS location.

50. The data log records and initial baseline odometer reading are used to generate OBU odometer readings for each car journey.

51. Before generating a log book report, the BetterDriver system validates the car journey records to ensure consistency of the data by comparing the total distance travelled, as measured by the OBU, to total distance between the baseline odometer readings (initial and final), which are based on the car's inbuilt odometer.

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

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

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

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

56. 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.

57. The logging period of the BetterDriver system defaults to 12 weeks, commencing from the date of registration of the OBU. It is accepted that in such circumstances the BetterDriver system will meet the requirement to record each business journey during the 'applicable log book period'.

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

Does the BetterDriver system log book report satisfy the requirements of the definition of 'odometer records'?

59. The term 'odometer records' is defined in subsection 136(1) as follows:

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) ...
- (d) (Omitted by No 145 of 1995)
- (e) (Omitted by No 145 of 1995)

are entered in the English language, at, or as soon as reasonably practicable after, the respective times to which those odometer readings relate.

60. 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'.

61. The driver records onto the BetterDriver system the car's then current odometer reading both at the time of initial registration and also at the time of completion of the default 12 week logging period.

62. It is considered that the requirements for odometer readings to be recorded at both the 'commencement of the period' and at the 'end of the period' are satisfied.

63. It was determined previously (at paragraph 43) that a log book report provided by the BetterDriver 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'.

64. It is considered that the BetterDriver system log book report satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

Conclusion on whether the BetterDriver system log book report meets the relevant requirements of section 10A

65. As determined previously (at paragraphs 58 and 64 respectively), BetterDriver system log book reports are 'log book records' and 'odometer records' for the purposes of paragraph (a) of section 10A.

66. 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 BetterDriver system log book report.

67. An employer using the BetterDriver system log book 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 BetterDriver system log book report meets the relevant requirements of section 10A.

Does the BetterDriver system log book report meet the relevant requirements of section 10B?

68. Section 10B states:

SECTION 10B

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

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 period.

69. As determined previously (at paragraph 64) the BetterDriver system log book report will satisfy the definition of the term ‘odometer records’ in subsection 136(1). For similar reasons, it is considered that the BetterDriver log book reports will be ‘odometer records’ for the purposes of paragraph (a) of section 10B.

70. 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 BetterDriver system log book report.

Conclusion on whether the BetterDriver system log book report meets the relevant requirements of section 10B

71. An employer using the BetterDriver system log book 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 BetterDriver system log book report meets the relevant requirements of section 10B.

Appendix 2 – Detailed contents list

72. 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 2006/10

Subject references:

- car fringe benefits
- log book records
- odometer records

Legislative references:

- FBTAA 1986 10

- FBTAA 1986 10A
- FBTAA 1986 10B
- FBTAA 1986 136(1)
- FBTAA 1986 162G
- FBTAA 1986 162H
- TAA 1953
- Copyright Act 1968

Other references:

- The Macquarie Dictionary on-line
- ATO ID 2002/925

ATO references

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