


***CR 2015/2 - Fringe benefits tax: clients of LogbookMe Pty Ltd who use the LogbookMe In-Car Logbook Solution to calculate the total number of car parking benefits***

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## Class Ruling

# Fringe benefits tax: clients of LogbookMe Pty Ltd who use the LogbookMe In-Car Logbook Solution to calculate the total number of car parking benefits

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### **📌 This publication provides you with the following level of protection:**

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:
- subsection 39A(1) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
  - Subdivision B of Division 10A of the FBTAA
  - subsection 39FA(1) of the FBTAA
  - Subdivision D of Division 10A of the FBTAA
  - subsection 39GA(1) of the FBTAA, and
  - section 39GG 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 clients of LogbookMe Pty Ltd (LogbookMe) who use the LogbookMe In-Car Logbook Solution (LogbookMe Solution) to calculate the total number of car parking fringe benefits provided during a fringe benefits tax year.

## 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 29 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

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7. This Ruling applies from 1 April 2014 to 31 March 2019. 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).

## Previous Rulings

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8. The use of the in-car device described in paragraphs 13 to 17 for the purposes of producing 'logbook records' and odometer records was considered in Class Ruling CR 2014/27 *Fringe benefits tax: clients of LogbookMe Pty Ltd who use the LogbookMe In-Car Logbook Solution for car logbook and odometer records*.

## Scheme

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9. The following description of the scheme is based on:
- information provided by the applicant in the application
  - information provided on the LogbookMe website
  - LogbookMe Parking register Module Overview Document dated September 2014
  - an example of a *Parking Register* report summarising the number of car parking benefits provided to four employees, and
  - an example of a *Parking Register Details* report showing the details for an individual employee.

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

10. LogbookMe is part of the GDML Group. The GDML Group includes:
- CarParking.info which is a car parking information site and app, and
  - FBTme which provides a database of car parking rates.
11. The LogbookMe Solution is a cloud-based online platform which can be used to log the journeys of a car and the times for which the car has been parked at a specified location.
12. The LogbookMe Solution consists of:
- an in-car device that is installed in the car to capture location information at specific times
  - a cloud-based remote data management platform (Platform) that securely receives, processes, reports and stores the location information, and
  - a web browser based secure portal (Portal) that allows the employer to view events, change the default settings and generate a report.

### In-Car Device

13. The In-Car Device is a Global Positioning System (GPS) device that is able to monitor the position of the car at a particular point in time so as to determine the car's journeys and the locations at which the car is parked. It can also determine the period of time for which the car is parked at each location by using the end and start times of the journeys.

14. The In-Car Device contains a GPS module, movement sensors, solid state memory, mobile communication modules, sim card, battery and power socket. The In-Car Device is powered by a connection to the car's 12 volt cigarette lighter attachment, in-built USB port or On-Board Diagnostics port.

15. Upon receipt of the In-Car Device and it being placed in the relevant car, the user will be prompted to enter the following information prior to commencing the first trip for which the In-Car device is used:

- login and password details
- opening odometer reading from the vehicle's built-in odometer, and
- time zone.

16. The In-Car Device records the car's current location, time and movement locations. It commences recording data when it senses movement in the car. The recorded data is saved onto the device memory with identifiers including the time and date of each capture. The recorded data is then automatically sent using a wireless mobile connection to the Platform. Should coverage on the mobile network not be available, the In-Car Device will automatically store the recorded data and periodically resend until successful.

17. To maintain the integrity of the data provided by the In-Car device, the device has tamper triggers to report if the device is unplugged or tampered with. In addition, LogbookMe will periodically check the device to ensure it is active and accurately recording the car's movements.

## **Platform**

18. At the time the In-Car device is ordered, the employer or user provides information that is used to set up the user account. This information includes the following:

- name of driver
- car registration
- car make and model
- engine size
- carrying capacity
- email address for user notifications and App configuration
- login and password details
- the name of the employer, and

- location(s) of the premises at which the car will be parked for which a report is required. These are the premises that are located within a one kilometre radius of a commercial parking station for which a car parking benefit will be provided when the conditions contained in subsection 39A(1) are met.

19. The information input into the Platform to set up the user account can be reviewed and revised by the employer at any time using the Portal.

20. The Platform is activated for use when the In-Car Device is dispatched to the user and, from that point, is available to receive journey information at any time while the In-Car Device is operating.

21. The Platform receives all transmissions continuously when the In-Car Device is operating and verifies data integrity and receipt. The Platform then processes the transmissions and generates a log for the specific device which represents the individual driver. Part of the processing includes collation of various transmissions to create individual events that show the times at which the car is parked at the specified location(s).

### **The Portal**

22. The Portal allows the employer to review all events for each car, change the default settings and generate a report.

23. For the purposes of producing the reports, the LogbookMe Solution has default settings that assume:

- the specified premises are located within one kilometre of a commercial parking station at which the lowest fee charged in the ordinary course of business to members of the public for all-day parking on the first business day of the FBT year is more than the car parking threshold
- the car is the employee's car, or a car benefit relating to the car was provided in respect of the employee's employment
- the car parking on the specified premises is provided in respect of the employment of the employee
- the car is parked at or near the employee's primary place of employment on that day
- the car is used by the employee to travel between home and work (or work and home) at least once on that day, and
- the provision of the parking facilities is not excluded from the operation of section 39A by regulation 4 of the *Fringe Benefits Tax Regulations 1992* which applies to car parking provided for a car used by a disabled employee who is legally entitled to use a disabled person's car parking space and has a valid disabled person's car parking permit displayed on the car.

24. If any of these conditions are not met on a particular day, the employer is able to change the relevant default setting for that day. Where this occurs, a manual notation is shown on the LogbookMe *Parking Register* report.

## **Reports**

25. The LogbookMe Solution produces two parking reports (LogbookMe parking reports):

- The LogbookMe *Parking Register Details* report, and
- The LogbookMe *Parking Register* report.

### ***The LogbookMe Parking Register Details report***

26. The LogbookMe *Parking Register Details* report provides the following details for each occasion the car is parked at a specified location:

- 'In Time' which is the time and date at which the car entered the specified premises
- 'Out Time' which is the time at which the car exited the specified premises
- 'Hours Parked in Zone' which is the total time the car was parked at the location between 7am and 7pm, and
- 'Location' which is the address of the specified location.

### ***The LogbookMe Parking Register report***

27. The LogbookMe *Parking Register* report lists the total number of days on which each of the cars fitted with the LogbookMe Solution were parked at the specified location for at least four hours between 7am and 7pm.

28. Both reports are produced in English and are exportable to a csv or pdf format.

29. The reports are produced for a minimum 12 week period. The user can choose a longer period for the report.

## Ruling

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30. The LogbookMe *Parking Register Details* report is a document that records the particular days on which a car parking benefit as defined in subsection 39A(1) arises as a result of the car being parked at a specified location.

31. Where the LogbookMe Solution is fitted to all of the cars for which a car parking benefit may arise during an FBT year, the information provided in the LogbookMe parking reports will be sufficient to establish the actual number of car parking benefits provided during the year when using Subdivision B of Division 10A to calculate the taxable value of the car parking fringe benefits provided during the year.

32. Where the LogbookMe Solution is only fitted to some of the cars for which a car parking benefit may arise during an FBT year, the LogbookMe parking reports may be used to determine the number of car parking benefits that arose for the cars to which the LogbookMe Solution is fitted, provided the employer makes an election under:

- subsection 39FA(1) to use the statutory formula method, and/or
- subsection 39GA(1) to use the 12 week register method,

to separately determine the number of car parking benefits that arose for the cars to which the LogbookMe Solution is not fitted.

33. The LogbookMe *Parking Register Details* report is a valid register as defined in section 39GG that can be used to calculate the total number of benefits provided during a 12 week period for the purposes of using the 12 week register method in Subdivision D of Division 10A to calculate the taxable value of the car parking benefits provided to the relevant employees.

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**Commissioner of Taxation**

14 January 2015

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## Appendix 1 – Explanation

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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.*

### When will a car parking benefit arise?

34. A car parking benefit will arise on a particular day when the conditions in subsection 39A(1) are met. Subsection 39A(1) states:

If the following conditions are satisfied in relation to a daylight period, or a combination of daylight periods, on a particular day:

- (a) during the period or periods, a car is parked on one or more premises of a person (the **provider**), where:
  - (i) the premises, or each of the premises, on which the car is parked are business premises, or associated premises, of the provider; and
  - (ii) a commercial parking station is located within a 1 km radius of the premises, or each of the premises, on which the car is parked; and
  - (iii) the lowest fee charged by the operator of any such commercial parking station in the ordinary course of business to members of the public for all-day parking on the first business day of the FBT year is more than the car parking threshold;
- (b) the total duration of the period or periods exceeds 4 hours;
- (c) any of the following applies:
  - (i) a car benefit relating to the car is provided on that day to an employee or an associate of an employee in respect of the employment of the employee;
  - (ii) the car is owned by, or leased to, an employee or an associate of an employee at any time during the period or periods;
  - (iii) the car is made available to an employee or an associate of an employee at any time during the period or periods by another person, where:
    - (A) the other person is neither the employer of the employee nor an associate of the employer of the employee; and
    - (B) the other person did not make the car available under an arrangement to which the employer of the employee, or an associate of the employer of the employee, is a party;
- (d) the provision of parking facilities for the car during the period or periods is in respect of the employment of the employee;
- (e) on that day, the employee has a primary place of employment;
- (f) during the period or periods, the car is parked at, or in the vicinity of, that primary place of employment;

- (g) on that day, the car is used in connection with travel by the employee between:
  - (i) the place of residence of the employee; and
  - (ii) that primary place of employment;
- (h) the provision of parking facilities for the car during the period or periods is not taken, under the regulations, to be excluded from this section;
- (i) the day is on or after 1 July 1993;

the provision of parking facilities for the car during the period or periods is taken to constitute a benefit provided by the provider to the employee or the associate of the employee in respect of the employment of the employee.

35. The LogbookMe Solution records the dates and times at which the car enters and leaves a specified location. Where the car is parked at the location for at least four hours between 7am and 7pm the LogbookMe Solution will record the day as a day on which the requirements of subsection 39A(1) are met, unless the default settings have been changed for that day.

### **The calculation of the taxable value of car parking fringe benefits**

36. In broad terms, the calculation of the taxable value of the car parking fringe benefits provided during a year involves the following three steps:

- Step 1 – calculate the total number of car parking benefits provided during the year.
- Step 2 – determine the value of each car parking benefit.
- Step 3 – multiply the total number of car parking benefits (as calculated in Step 1) by the value of each benefit (as determined in Step 2).

37. The LogbookMe Solution is only designed to assist employers with Step 1. To calculate the taxable value of these benefits employers will need to separately determine the value of each benefit using:

- the lowest all day fee as set out in section 39C, or
- the market value method as set out in section 39D, or
- the average lowest fee as set out in section 39DA.

### **Calculating the total number of car parking benefits**

38. Taxation Ruling TR 96/26 *Fringe benefits tax: car parking fringe benefits* provides guidance on the methods that can be used to determine the number of benefits.

39. As per paragraph 15 of TR 96/26, the number of benefits may be calculated by:

- keeping actual records of all car parking benefits provided (actual benefits method)
- the use of a statutory formula (statutory formula method), or
- the use of a representative 12 week register (12 week register method).

40. Paragraphs 13 to 34 of TR 96/26 discuss the circumstances in which each of the methods can be used. Paragraph 16 states:

16. An employer may elect to use either the statutory formula or the 12 week register methods of calculating the number of benefits provided. An election may cover some or all of the benefits provided. If no election is made, an employer must calculate the number of benefits provided by keeping records of actual usage of car parking spaces.

### ***Actual benefits method***

41. In describing the actual benefits method, paragraph 17 of TR 96/26 states:

17. An employer may choose to base the number of taxable car fringe benefits on a record of the actual number of benefits provided in an FBT year.

42. The general record keeping requirement that applies to the calculation of car parking fringe benefits is set out in paragraph 62 of TR 96/26 which states:

62. Employers are required by subsection 132(1) of the FBTA to keep appropriate records which form the basis upon which FBT liability is determined. This general record-keeping requirement applies equally to records which explain the calculation of car parking fringe benefits. Subsection 132(3) of the FBTA requires that records relating to the provision of fringe benefits must be maintained in English or in a way which is readily accessible and convertible into English. Records relating to the provision of fringe benefits should be retained by employers for 5 years.

43. In relation to the actual benefits method, paragraph 63 of TR 96/26 states:

63. Records kept under this method must be sufficient to establish the actual number and value of car parking benefits provided during an FBT year.

44. The records that need to be kept to satisfy this requirement will differ depending upon whether a record is kept of the benefits as they are provided.<sup>1</sup>

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<sup>1</sup> Paragraphs 64 to 68 of TR 96/26 provide guidance as to the record keeping requirements for the actual benefits method where a record is not kept of the benefits as they are provided.

45. The LogbookMe Solution is a system that records the dates and times at which a car is parked at a particular location on an ongoing basis. This information is used to prepare the LogbookMe parking reports. It is accepted that these reports are sufficient to establish the actual number of car parking benefits provided in relation to the cars to which the system is fitted.

46. Therefore, where the LogbookMe Solution is fitted to all of the cars for which a car parking benefit may arise during an FBT year, the LogbookMe parking reports will be sufficient to establish the total number of car parking benefits provided during the year.

47. Where the LogbookMe Solution is only fitted to some of the cars for which a car parking benefit may arise during an FBT year, the LogbookMe parking reports will not provide details of the car parking benefits for the cars to which the LogbookMe Solution was not fitted. Therefore, the LogbookMe parking reports will not be sufficient to establish the total number of car parking benefits provided during the year where the LogbookMe Solution is only fitted to some of the cars and no additional records are kept.

48. However, as set out in paragraph 40 of this Ruling, an employer is not restricted to only using one method to calculate the total actual number of benefits. An employer is able to elect to use the statutory formula method in Subdivision C of Part III, or the 12 week register method in Subdivision D of Part III, to determine the number of car parking benefits provided to particular employees, or employees of a particular class.

49. Therefore, where the LogbookMe Solution is only fitted to some of the cars for which a car parking benefit may arise during an FBT year, the LogbookMe parking reports may be used to determine the number of car parking benefits that arose for the cars to which the LogbookMe Solution is fitted, provided the employer makes an election under:

- subsection 39FA(1) to use the statutory formula method, and/or
- subsection 39GA(1) to use the 12 week register method,

to determine the number of car parking benefits that arose for the cars to which the LogbookMe Solution is not fitted.

### ***12 week register method***

50. An employer who provides one or more car parking benefits in a particular FBT year is able to make an election under subsection 39GA(1) to use a register to calculate the number of car parking fringe benefits provided to some or all of the employees.

51. In specifying the employees to which the election can relate, subsection 39GA(2) states:

The employer must specify that the election covers:

- (a) all the employees; or
- (b) all employees of a particular class; or
- (c) particular employees.

52. In explaining the operation of the 12 week register method, paragraphs 27 to 33 of TR 96/26 state:

27. Under Subdivision D of Division 10A of the FBTAA, an employer may elect to keep a register, for a continuous 12 week period, to determine the total value of car parking benefits for an FBT year.

28. An employer may keep separate registers for different classes of employees.

29. The total taxable value of the employer's car parking fringe benefits may be determined by the use of the following formula:

$$\left[ \frac{\text{Total value of car parking benefits (register)} \times 52}{12} \right] \times \frac{\text{Number of days in car parking availability periods}}{366}$$

- The **total value of car parking benefits (register)** is the amount that would be calculated by using either the commercial parking station, market value or average cost method, assuming that the register had been kept in that FBT year and the value of benefits were calculated in accordance with the information in the register.
- The **car parking availability period** is the period between and including the first and last days in the FBT year in which a car parking benefit is provided for an employee covered by the election.

30. The 12 week period must be continuous and representative. Whether a chosen period is representative will depend upon the nature of the business activities and relevant patterns of usage.

31. If the register is maintained for one FBT year, it is valid for that year and the following four FBT years. If the 12 week period falls across two FBT years, the register is only valid for the second and subsequent four years.

32. The register will cease to be valid at the end of the FBT year if the number of benefits provided increases by more than 10% on any day in that FBT year.

33. If a register becomes invalid, the number of benefits will be based on whatever records are available, and the taxable value is calculated using the commercial parking station method.

53. The matters required to be included in the register are set out in section 39GG. Section 39GG states:

**39GG Matters to be included in register**

- (1) The register must include details of the following:
  - (a) the date on which each car covered by subsection (4) was parked;
  - (b) whether the car was parked for a total that exceeds 4 hours;
  - (c) whether the car travelled between the place of residence of an employee covered by the election and his or her primary place of employment on that day;
  - (d) the place where the car was parked.
- (2) The person responsible for making entries in the register must make the entry as soon as practicable after he or she knows the details required by subsection (1).
- (3) If subsection (1) or (2) is not satisfied, the register is not valid.
- (4) A car is covered by this subsection if:
  - (a) a car benefit relating to the car is provided on a day during the 12 week period to an employee covered by the election in respect of the employee's employment; or
  - (b) the car is owned by, or leased to, an employee covered by the election at any time during the 12 week period; or
  - (c) the car is made available by another person to an employee covered by the election at any time during the 12 week period where:
    - (i) the other person is not the employee's employer; and
    - (ii) the other person did not make the car available under an arrangement to which the employee's employer is a party.

54. In considering these requirements, the LogbookMe *Parking Register Details* report:

- is produced for a minimum 12 week period
- shows the date(s) on which each car covered by the register was parked
- shows whether the car was parked for longer than four hours
- the place where the car was parked, and
- the entries are made as soon as a car fringe benefit arises.

55. Although the report does not include details of whether the car was used to travel between the place of residence and the place of employment, the employer in using the default settings has accepted that this condition is met.

56. Therefore, it is accepted the LogbookMe *Parking Register Details* report can be used to determine the total number of benefits provided during the 12 week period.

## **Appendix 2 – Detailed contents list**

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

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## References

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- Previous draft:*
- FBTAA 1986 39C
- Not previously issued as a draft
- FBTAA 1986 39D
  - FBTAA 1986 39DA
- Related Rulings/Determinations:*
- FBTAA 1986 Pt III Div 10A Subdiv B
- TR 96/26; TR 2006/10;  
CR 2014/27
- FBTAA 1986 Pt III Div 10A Subdiv C
- Subject references:*
- FBTAA 1986 39FA(1)
  - FBTAA 1986 Pt III Div 10A Subdiv D
  - car parking fringe benefits
  - FBT motor vehicle parking
  - Fringe benefits tax
- Legislative references:*
- FBTAA 1986
  - FBTAA 1986 Pt III Div 10A
  - FBTAA 1986 39A
  - FBTAA 1986 39A(1)
  - FBTAA 1986 39GA(1)
  - FBTAA 1986 39GA(2)
  - FBTAA 1986 39GG
  - FBTAA 1986 132(1)
  - Fringe Benefits Tax Regulations 1992 4
  - TAA 1953
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### ATO references

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