

CR 2016/56 - Fringe benefits tax: employers who use the Ctrack Pty Ltd telematics system for car log book records and for odometer records



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Class Ruling

Fringe benefits tax: employers who use the Ctrack Pty Ltd telematics 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 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 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 employers who use Ctrack's telematics system for car log book 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 23 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 1 March 2015. 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 relevant documents or parts of documents incorporated into this description of the scheme are:

- the Class Ruling application dated 1 March 2016, and
- the email from BDO dated 9 June 2016.

Ctrack Telematics Solution

9. Ctrack Pty Ltd (Ctrack) has developed a telematics solution which allows car locations to be accurately tracked (and remotely recorded) using GPS locations. This information feeds back to a centralised database, which then allows the employers to view and download log book and odometer records.

10. The Ctrack database is a secured database which is hosted by Fujitsu, an unrelated third party provider. Whilst the database contains Ctrack branding, the database is hosted, controlled and secured by Fujitsu.

11. The Ctrack telematics solution consists of an in-vehicle telematics device which has a built in GPS receiver that is used for capturing GPS locations. The in-vehicle telematics device can be hardwired to the electronics system of the car.

12. The GPS locations are captured, then used to calculate odometer readings of the particular car (that is, distance travelled by the particular car).

13. For each journey completed, the Ctrack telematics device records:

- the date of the journey
- the time the journey starts and finishes
- the number of kilometres travelled, and
- the purpose of the journey as input by the driver.

Specifically, the Ctrack telematics device:

- detects the turning on and off of the ignition of the car
- uses a GPS receiver to record and calculate data from the GPS satellite, and
- communicates with the server (which runs the Ctrack software) via the 3G network.

14. In the event the Ctrack telematics device is operating within an area in which 3G coverage is not available, it stores the data on-board and automatically transmits the stored data back to the centralised telematics platform (that is, the Ctrack database) when access to 3G communication coverage is restored.

15. The Ctrack telematics system provides customers with two options to capture business or private journey declarations for the purpose of electronic log book journey reporting.

16. The first option available to Ctrack's customers is to install a business/private switch into each fleet car. The switch connects to the in-vehicle telematics device, and allows drivers to make a declaration in real-time as to whether their journey is for business or private purposes (that is, a declaration is made prior to the start of the journey).

17. The second option available to Ctrack's customers is for each driver to use Ctrack's 'Mobi' platform (a smartphone/tablet portal) to manually select whether a journey has been undertaken for business or private purposes.

18. Under option 2, an employee identifies themselves as the applicable driver of the car for that journey by linking their journey using the Mobi platform. In the event the telematics device is moved to another vehicle, the device automatically recognises the change (through VIN number recognition) and feeds back to the Ctrack database accordingly. Alternatively manual assignment of driver via Ctrack Online portal is available.

19. Under both options, in the event that an employee does not input the nature of the particular journey undertaken (that is, for business or private purposes), the Ctrack telematics system will automatically allocate the journey as being for private purposes.

Business Private Report

20. The employer can then use the information contained within the Ctrack database to generate a 'Business Private Report' on a weekly basis at minimum or on demand as required, which details each individual journey undertaken by each vehicle.

21. The 'Business Private Report' provides the following information for each journey undertaken in the selected period:

- the start and end date of the logbook period
- the car identification number
- the car description
- the start time and date of which each journey occurs
- the time and date on which the journey was completed
- the driving duration for the journey
- the stop duration between journeys
- the total odometer for the journey
- the private odometer for the journey
- the business odometer for the journey
- the driver identification
- the status (purpose) of the journey
- the address (that is, full location address details for the journey)
- the remarks (that is, journey purpose comments)
- the total driving duration for the entire reporting period (per vehicle basis)
- the total stop duration for the entire reporting period (per vehicle basis)
- the total odometer for the entire reporting period (per vehicle basis)

- the total private odometer for the entire reporting period (per vehicle basis), and
- the total business odometer for the entire reporting period (per vehicle basis).

22. An employer will use the Ctrack system to produce, in English, a 'Business Private Report' for any selected period for each car that has the system fitted and/or each employee who uses the car that has the system fitted.

23. The Ctrack telematics system 'Business Private Report' will also provide details of the calculated business use percentage for the selected period.

Ruling

24. The Ctrack telematics system 'Business Private Report' is a document that satisfies the definition of 'log book records' in subsection 136(1).

25. The Ctrack telematics system 'Business Private Report' is a document that satisfies the definition of 'odometer records' in subsection 136(1).

26. An employer using the Ctrack telematics system 'Business Private 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 Ctrack telematics system 'Business Private Report' meets the requirements of section 10A.

27. An employer using the Ctrack telematics system 'Business Private 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 Ctrack telematics system 'Business Private Report' meets the requirements of section 10B.

Commissioner of Taxation

3 August 2016

Appendix 1 – Explanation

1 *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 FBTA?

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

29. Where the election is made, 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:

- (a) if, under section 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 - nil; or
- ...
- (c) in any other case - the business use percentage applicable to the car for the holding period; and

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

30. 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 (if the year is a log book year of tax) or section 10B (if the year is not a log book year of tax), as applicable.

Does the Ctrack telematics system 'Business Private Report' meet the relevant requirements of section 10A?

31. Section 10A states:

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) if the provider is not the employer - those log book records and odometer records are given to the employer before the declaration date; and
- (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.

32. 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 Ctrack telematics 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'.

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

Does the Ctrack telematics system 'Business Private Report' satisfy the requirements of the definition of 'log book records'?

34. Subsection 136(1) 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;

...

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

35. 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 reasonably practicable after, the end of the journey'.

36. The Ctrack telematics device collects all applicable information for each journey undertaken by a car (that is, the location, date and time and the purpose of each journey, kilometres travelled recorded as per the GPS co-ordinates), and automatically sends it to Ctrack's centralised server.

37. In addition to this, the business use or private use details for the journey are input by each respective driver either through the use of the business/private switch (option 1) or through the Mobi platform (option 2). Then the employer uses the Ctrack system to produce, in English, a 'Business Private Report' for the selected period.

38. It is considered that the 'Business Private Report' 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 reasonably practicable after, the end of the journey'.

39. 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 'Business Private Report' on a daily basis, the period for making the report may be extended. Therefore, provided the necessary reports are made or produced, at least weekly, it is considered that such circumstances do not necessarily change the view expressed previously (in paragraph 38 of this Ruling).

40. 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.

41. 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'.

42. 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.

43. 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.

44. It is accepted that the odometer readings calculated by the Ctrack telematics system are of sufficient integrity to be 'odometer readings of the car'.
45. It is also considered that the opening and closing odometer readings for each car journey detailed on the 'Business Private Report' satisfy the requirements of paragraph (d) of the definition of 'log book records' in subsection 136(1).
46. The 'Business Private Report' sets out other particulars that readily satisfy paragraphs (c), (e) and (f) of the definition of 'log book records' in subsection 136(1).
47. Further, 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'.
48. Paragraph 10A(a) refers to log book records being maintained for an 'applicable log book period'.
49. 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.
50. It is accepted, in the absence of evidence to the contrary in a particular case, that all employers using the Ctrack telematics system 'Business Private Report' in relation to any car fringe benefits they provide will maintain the necessary records for the duration of the 'applicable log book period' (as that latter term is defined in subsection 162H(1)).
51. It is considered that the Ctrack telematics system 'Business Private Report' satisfies all the relevant requirements of the definition of 'log book records' as defined in subsection 136(1).

Does the Ctrack telematics system 'Business Private Report' satisfy the requirements of the definition of 'odometer records'?

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

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) if paragraph 162K(2)(b) or 162L(2)(b) applies with effect from a particular date—the odometer readings of both the replacement car and of the original car referred to in that paragraph, as at that date;

...

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

53. 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'.

54. The Ctrack telematics system 'Business Private Report' provides details of the odometer reading for the car at the start of the first recorded journey and also the odometer reading for the car at the end of the last recorded journey that were undertaken during each report period.

55. As stated previously (at paragraph 50 of this Ruling), it is also accepted, in the absence of evidence to the contrary in a particular case, that all employers using the Ctrack telematics system 'Business Private Report' will maintain the necessary records for the 'applicable log book period'.

56. It was determined previously (at paragraph 38 of this Ruling) that a Ctrack telematics system 'Business Private Report' provided by the Ctrack telematics 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'.

57. Therefore, it is considered that the Ctrack telematics system 'Private Business Report' satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

Conclusion on whether the Ctrack telematics system 'Business Private Report' meets the relevant requirements of section 10A

58. As determined previously (at paragraphs 51 and 57 of this Ruling respectively), the Ctrack telematics system 'Business Private Report' are 'log book records' and 'odometer records' for the purposes of paragraph 10A(a).

59. 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 Ctrack telematics system 'Business Private Report'.

60. An employer using the Ctrack telematics system 'Business Private 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 Ctrack telematics system 'Business Private Report' meets the relevant requirements of section 10A.

Does the Ctrack telematics system 'Business Private Report' meet the relevant requirements of section 10B?

61. Section 10B states:

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.

62. As determined previously (at paragraph 57 of this Ruling) the Ctrack telematics system 'Business Private Report' will satisfy the definition of the term 'odometer records' in subsection 136(1). For similar reasons, it is considered that the Ctrack telematics system 'Business Private Report' will meet the definition of 'odometer records' for the purposes of paragraph 10B(a).

63. 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 Ctrack telematics system 'Business Private Report'.

Conclusion on whether the Ctrack telematics system 'Business Private Report' meets the relevant requirements of section 10B

64. An employer using the Ctrack telematics system 'Business Private 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 Ctrack telematics system 'Business Private Report' meets the relevant requirements of section 10B.

Appendix 2 – Detailed contents list

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10

Legislative references:

- FBTAA 1986
- FBTAA 1986 10
- FBTAA 1986 10(2)
- FBTAA 1986 10A
- FBTAA 1986 10A(a)
- FBTAA 1986 10B
- FBTAA 1986 10B(a)
- FBTAA 1986 136(1)

- FBTAA 1986 136(1)
- FBTAA 1986 136(1)
- FBTAA 1986 136(1)
- FBTAA 1986 162G
- FBTAA 1986 162G(1)(b)
- FBTAA 1986 162H
- FBTAA 1986 162H(1)
- FBTAA 1986 162K(2)(b)
- FBTAA 1986 162L(2)(b)
- ITAA 1997
- TAA 1953

Other references:

- Macquarie Dictionary, online edition

ATO references

NO: 1-7SVQRIR

ISSN: 2205-5517

BSL: PGH

ATOlaw topic: Fringe benefits tax ~~ Car benefits ~~ Substantiation

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