


CR 2019/8 - Fringe benefits tax: clients who use Two10degrees Pty Ltd Global Alerting Platform in Vehicle Management System for car log book and odometer records

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Class Ruling

Fringe benefits tax: clients who use Two10degrees Pty Ltd Global Alerting Platform in Vehicle Management System for car log book and 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.

Summary – what this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provisions

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
- subsection 136(1) of the FBTAA.

All legislative references in this Ruling are to the FBTAA unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies is those employers who use Two10degrees Pty Ltd's (Two10degrees) Global Alerting Platform in Vehicle Management System (GAP IVMS) 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 32 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 April 2018. 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 *Public Rulings*).

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 Class Ruling application dated 11 October 2018.

Two10degrees GAP IVMS

9. Two10degrees has developed a GPS cloud based online platform, GAP IVMS, which can be used to log the journeys of a vehicle during a pre-determined period. Currently, the two periods being offered are a 12 week period and a 52 week period.

10. The GAP IVMS consists of:

- a unique employee radio-frequency identification (RFID) card that uniquely identifies the driver of the vehicle
- an in vehicle management system (IVMS) containing a GPS tracking device, that is installed in the vehicle to capture journey information
- Two10degrees Global Alerting Platform (GAP) which is a cloud-based platform that securely receives, processes, reports and stores the journey information
- a smart phone based mobile application (GAP Guardian App) that allows the driver to view journey information and classify the purpose of each journey, and
- FBT reports generated by GAP.

In car device

11. The IVMS may be connected to the vehicle's on-board diagnostics (OBD) port, allowing the vehicle's odometer to be read. When connected to OBD, IVMS is directly connected to odometer and provides a one-to-one reading of the odometer reading.

12. In the event that the vehicle odometer is unable to be read (for example, an incompatible vehicle), or the IVMS is not connected to the OBD port, as a full back method the GPS odometer method described in paragraphs 14 to 23 of this Ruling will be used.

13. The IVMS is powered by the vehicle and records the following information for each journey:

- time and date at the start of the journey
- time and date at the end of the journey
- location of journey origin and destination
- vehicle odometer reading at the start and end of the journey (via the vehicle's OBD port), or if using the GPS fall back method, the GPS odometer reading at the start and end of the journey
- distance and time travelled, and
- vehicle and driver identification.

Process

14. At the commencement of a journey, the IVMS prompts the driver to login using a RFID card that uniquely identifies the driver. Upon logging in, the IVMS assigns the journey to the driver. At the completion of the journey, the driver is prompted on their phone by

the Two10degrees GAP Guardian App, to classify the purpose of the journey as either business or personal.

15. If any journey remains unclassified for a short period of time (period to be nominated by the employer between 1 to 3 days), the driver is re-prompted via the GAP Guardian App (and optionally email/SMS). If any journey remains unclassified for a longer period of time (period to be nominated by employer between 3 to 7 days), this is escalated to the driver's manager via email/SMS for follow-up.

16. The driver's manager uses GAP to view the details of the unclassified journeys (for example, vehicle, start and stop date/time, start and stop location), and either manually classifies the purpose, or follows up with the driver to classify the purpose.

17. In cases where the driver of a journey is unassigned (for example, the driver does not login), the vehicle's manager is notified (typically through email/SMS) that there are unassigned journeys for a particular vehicle. It is then the responsibility of the vehicle's manager to use GAP to manually assign each unassigned journey to a particular driver, using the parameters of the journey (for example, vehicle, start and stop date/time, start and stop location).

18. The assigned driver is then notified on their GAP Guardian App that they have unclassified journeys, and they are able to either classify the journeys or reject the journeys (that is, because they were not the driver). If the journey is rejected, the vehicle manager is notified, and must re-assign the journey to the correct driver.

19. If the vehicle odometer is unable to be read (for example, an incompatible vehicle, or the IVMS is not connected to the vehicle OBD port), then as a fall back the GPS odometer method will be used as follows. The GPS odometer method uses the IVMS GPS to provide a virtual odometer reading (that is, GPS odometer).

20. At the beginning of the log book period, the vehicle's manager will be prompted by GAP to enter the vehicle's odometer reading, thereby synchronising the GPS odometer to the vehicle's odometer.

21. Subsequently, the GPS odometer is used to measure the distance travelled for each journey based upon GPS readings.

22. Upon completion of the log book period, the vehicle's manager will be prompted by GAP to again enter the vehicle's odometer reading. GAP will then determine whether there is any variance between the closing odometer readings determined by the GPS odometer as compared to the vehicle's odometer.

23. If the variance between the GPS odometer and the vehicle's odometer readings is greater than a pre-determined variance, the vehicle's manager will be notified. Where it is deemed that the variance is not acceptable, the vehicle's manager will have the option to restart a new log book period.

Security

24. The journey data collected by the IVMS is sent via a cellular or satellite connection. The data is encrypted during transport, securing the privacy and integrity of the data.

25. Each driver is provided with a unique RFID card that uniquely identifies the driver.

26. Access to the GAP Guardian App is secured by a username and password. Additionally, phone access is typically secured with a PIN, pattern or fingerprint according to employer policy.

27. Access to GAP is secured by a username and password, and optionally a two-factor authentication.

28. GAP runs on a Microsoft Azure data centre in Sydney and is compliant to the international ISO 27001 and the Australian InfoSec Registered Assessors Program (IRAP) standards (amongst other international and industry-specific compliance standards).

Reporting

29. GAP IVMS produces two reports from the journey data collected (GAP IVMS FBT Report). The GAP IVMS FBT Logbook report and the GAP IVMS FBT Summary report. The GAP IVMS FBT Logbook report provides the following details:

- name of driver
- vehicle ID (typically consisting of registration and/or vehicle asset number)
- start date and time of each journey
- end date and time for each journey
- the start and end odometer readings for each journey (either the vehicle odometer or the GPS odometer as a fall back)
- distance travelled in kilometres for each journey
- duration of each journey
- start and end locations, and
- purpose of journey.

30. The GAP IVMS FBT Summary report provides the following details:

- driver name
- vehicle ID (typically consisting of registration and/or vehicle asset number)
- the start and end odometer readings (either the vehicle odometer or the GPS odometer as a fall back)

- business usage percentage (the percentage of the number of business kilometres travelled to the total number of kilometres travelled)
- number of unclassified trips
- start date of log book
- end date of log book, and
- days remaining in the log book period.

31. In cases where the selected period is not 52 weeks, the GAP IVMS FBT Report will also provide the odometer readings at the start and end of the holding period (for example, 1 April and 31 March for a non-log book year).

32. The GAP IVMS FBT reports are in English and can be generated in common formats including text and Microsoft Excel spreadsheet.

Ruling

33. The Two10degrees GAP IVMS FBT Report is a document that satisfies the definition of 'log book records' in subsection 136(1).

34. The Two10degrees GAP IVMS FBT Report is a document that satisfies the definition of 'odometer records' in subsection 136(1).

35. The Two10degrees GAP IVMS FBT Report provides odometer records for the holding period as required under paragraphs 10A(b) and 10B(a).

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?

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

37. 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.

38. 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 Two10degrees GAP IVMS FBT Report satisfy the requirements of the definition of 'log book records'?

39. 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.

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 reasonably practicable after, the end of the journey'.

41. Two10degrees GAP IVMS collects all applicable information for each journey undertaken by the 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 Two10degrees centralised Microsoft Azure data centre in Sydney, which is compliant to the international ISO 27001 and the IRAP standards (amongst other international and industry-specific compliance standards).

42. In addition to this, the business use or private use details of the journey are input by each respective driver. At the commencement of the journey, the IVMS prompts the driver to login using the RFID card that uniquely identifies the driver. At the completion of the journey, the driver is prompted on their phone by the Two10degrees GAP Guardian App, to classify the purpose of the journey, in English, as either business or personal.

43. It is considered that the GAP IVMS FBT 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'.

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 GAP IVMS FBT 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 43 of this Ruling).

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 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. It is accepted that the odometer readings calculated by Two10degrees GAP IVMS are of sufficient integrity to be 'odometer readings of the car'.

50. It is also considered that the opening and closing odometer readings for each car journey detailed on the GAP IVMS FBT Report satisfy the requirements of paragraph (d) of the definition of 'log book records' in subsection 136(1).

51. The GAP IVMS FBT Report also sets out other particulars that readily satisfy paragraphs (c), (e) and (f) of the definition of 'log book records' in subsection 136(1).

52. 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'.

53. Paragraph 10A(a) (as detailed in paragraph 63) refers to log book records being maintained for an 'applicable log book period'.

54. The term 'applicable log book period' is defined in subsection 162H(1) as follows:

162H APPLICABLE LOG BOOK PERIOD

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 a 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.

55. It is accepted, in the absence of evidence to the contrary in a particular case, that all employers using Two10degrees GAP IVMS FBT 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 term is defined in subsection 162H(1)).

56. It is considered that Two10degrees GAP IVMS FBT Report satisfies all the relevant requirements of the definition of 'log book records' as defined in subsection 136(1).

Does Two10degrees GAP IVMS FBT Report satisfy the requirements of the definition of 'odometer records'?

57. 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.

58. 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'.

59. Two10degrees GAP IVMS FBT 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.

60. As stated previously (at paragraph 55 of this Ruling), it is also accepted, in the absence of evidence to the contrary in a particular case, that all employers using Two10degrees GAP IVMS FBT Report will maintain the necessary records for the 'applicable log book period'.

61. It was determined previously (at paragraph 43 of this Ruling) that Two10degrees GAP IVMS FBT Report 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'.

62. Therefore, it is considered that Two10degrees GAP IVMS FBT Report satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

Does Two10degrees GAP IVMS FBT Report meet the relevant requirements of section 10A?

63. 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.

64. 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 employers using Two10degrees GAP IVMS will make an election under paragraph 162G(1)(b) to treat a relevant current year of tax as a 'log book year of tax'.

65. As determined previously (at paragraphs 56 and 62 of this Ruling respectively), Two10degrees GAP IVMS FBT Report are 'log book records' and 'odometer records' for the purposes of paragraph 10A(a).

66. Two10degrees GAP IVMS FBT Report will provide the odometer records for the relevant holding period as the IVMS will either record the vehicle's odometer readings at the start and end of the relevant holding periods via the car's OBD port, or prompt the employer to manually enter the vehicle's odometer reading.

67. It is accepted that employers using Two10degrees GAP IVMS satisfy paragraph 10A(b) as the odometer records are maintained by or on behalf of the provider for the holding period.

68. 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 Two10degrees GAP IVMS FBT Report.

69. Employers using Two10degrees GAP IVMS FBT Report are, consequently, entitled to a reduction of the operating cost of a car on account of business journeys, in a log book year of tax, as Two10degrees GAP IVMS FBT Report meets the relevant requirements of section 10A.

Does Two10degrees GAP IVMS FBT Report meet the relevant requirements of section 10B?

70. 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.

71. As determined previously (at paragraph 65 of this Ruling) Two10degrees GAP IVMS FBT Report will satisfy the definition of the term 'odometer records' for the purposes of paragraph 10A(a). For similar reasons, it is considered that Two10degrees GAP IVMS FBT Report will meet the definition of 'odometer records' for the purposes of paragraph 10B(a).

72. In cases where the IVMS has been removed from the vehicle in a non-log book period, the employer will be required to manually record the car's odometer readings at the required times.

73. It is accepted that employers using Two10degrees GAP IVMS satisfy paragraph 10B(a) as the odometer records are maintained by or on behalf of the provider for the holding period of a non-log book year.

74. 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 Two10degrees GAP IVMS FBT Report.

75. An employer using Two10degrees GAP IVMS FBT Report is, consequently, entitled to a reduction of the operating cost of a car on account of business journeys, in a non-log book year of tax, as Two10degrees GAP IVMS FBT Report meets the relevant requirements of section 10B.

Appendix 2 – Detailed contents list

76. 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; CR 2017/65;
CR 2017/76; CR 2018/37

Legislative references:

- FBTAA 1986
- FBTAA 1986 10
- FBTAA 1986 10(2)
- FBTAA 1986 10A
- FBTAA 1986 10A(a)
- FBTAA 1986 10A(b)
- FBTAA 1986 10B

- FBTAA 1986 10B(a)
- FBTAA 1986 136(1)
- FBTAA 1986 162G
- FBTAA 1986 162G(1)(b)
- FBTAA 1986 162H
- FBTAA 1986 162H(1)
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- TAA 1953

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ATO references

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