

# ***CR 2023/59 - Park AI Pty Ltd - ParkLog report for calculating car parking benefits***



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Status: **legally binding**

## Class Ruling

# Park AI Pty Ltd – ParkLog report for calculating car parking benefits

### **❶ Relying on this Ruling**

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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### **What this Ruling is about**

1. This Ruling sets out the fringe benefits tax (FBT) consequences for employers who use the ParkLog Report to calculate the total number of car parking benefits provided during an FBT year.
2. Details of this scheme are set out in paragraphs 11 to 19 of this Ruling.
3. All legislative references in this Ruling are to the *Fringe Benefits Tax Assessment Act 1986*.

**Note:** By issuing this Ruling, the ATO is not endorsing this product. Potential users must form their own view about the product.

### **Who this Ruling applies to**

4. This Ruling applies to you if you are an employer client of Park AI Pty Ltd who uses the ParkLog Report to calculate the total number of car parking benefits provided during an FBT year.

### **When this Ruling applies**

5. This Ruling applies from 1 April 2023 to 31 March 2028.

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## **Ruling**

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6. The ParkLog Report records the particular days on which the car parking benefit requirement under paragraph 39A(1)(b) is met as a result of the car being parked at a specified location.

7. Where the ParkLog System is fitted to particular car park premises where car parking benefits may arise during an FBT year, the information provided in the ParkLog Report will be sufficient for an employer to establish the number of instances where the requirements under paragraph 39A(1)(b) are met. An employer may then use this information to determine where a car parking benefit has arisen by assessing whether all the requirements under subsection 39A(1) have been met.

8. Where a car parking fringe benefit has arisen, the number of car spaces the ParkLog Report records as having met the requirement under paragraph 39A(1)(b) can then be used by an employer to calculate the taxable value of the car parking fringe benefits under Subdivision B of Division 10.

9. The ParkLog 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 fringe benefits, provided the employer makes an election under:

- subsection 39GA(1) to use the 12-week register method, and
- records the requirement under paragraph 39GG(1)(c) as to whether the car travelled between the place of residence of an employee covered by the election and their primary place of employment on that day.

## **Scheme**

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10. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

11. The ParkLog Report has been developed by Park AI Pty Ltd to provide employers with a record of employee car park usage for calculating the taxable value of car parking fringe benefits provided during a year of tax.

12. The ParkLog Report is created using data from the ParkLog System, an automatic number plate recognition (ANPR) system comprised of ANPR cameras and a cloud-based data system. The cloud-based data system includes a customisable database and reporting dashboard.

13. ANPR cameras will be installed at each driveway entry and exit of the car park premises where employers provide car parking benefits to employees. The ANPR cameras transmit data over a 4G network to the cloud where it is processed and stored in the cloud-based data system. The ANPR cameras will capture and transmit data on every vehicle entering and exiting the car parking premises, including:

- the location of the ANPR camera
- the vehicle number plate
- the date and time of entry
- the date and time of exit, and

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- a photograph of the vehicle number plate.

14. The ParkLog Report can be configured according to the employer's needs having regard to whether the car park is used by employees only (employee only car park), or a mixture of employees and non-employees (mixed-use car park).

15. For employee only car parks, all vehicles entering and exiting the premises will be analysed for the ParkLog Report. However, employers may provide registration numbers of non-employee vehicles to be excluded from the ParkLog Report.

16. For mixed-use car parks, an employer will provide a list of vehicle registration numbers used by employees to be included in the database. These vehicles will be flagged as employee vehicles in the database. More than one vehicle can be allocated to an employee, for example if they have access to more than one car. Only employee vehicles will be analysed for the ParkLog Report.

17. The database will use the data gathered from the ANPR camera to produce a car parking report for employers (the ParkLog Report). The database can also be used to provide information on car parking usage at various levels of detail, including use per location and use per vehicle.

### **ParkLog report**

18. The ANPR cameras will capture data for a period of at least 12 weeks during an FBT year (that is, a 12-month period ending on 31 March). During this period the cloud-based database will:

- log the date and time that all vehicles enter and exit a nominated car park location and save a photo of the number plate of each vehicle as it enters and exits the car park
- identify the total number of employee cars parked for a total of more than 4 hours (whether parked continuously or not) between 7:00 am and 7:00 pm at the nominated car park location on each day
- identify employee vehicles that are parked for 4 hours or less between 7:00 am and 7:00 pm at the nominated car parking location on each day, and exclude these from the total number of car parks provided in the ParkLog Report.

19. The ParkLog Report will be provided to the employer in English on a periodic basis. Employers are able to add details of whether a car was used to travel between the employee's place of residence and primary place of employment to the ParkLog Report. However, parking information is set and cannot be changed.

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**Commissioner of Taxation**

1 November 2023

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## Appendix – Explanation

**❶** *This Explanation 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.*

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### When will a car parking benefit arise?

20. 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

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- (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.

21. Taxation Ruling TR 2021/2 *Fringe benefits tax: car parking benefits* sets out when the provision of car parking is a car parking benefit for the purposes of the *Fringe Benefits Tax Assessment Act 1986*.

22. The ParkLog Report records the dates and times at which the car enters and exits a specified location. Where the car is parked at the location for a period of more than 4 hours between 7:00 am and 7:00 pm, the ParkLog Report will record that day as a day on which the requirements of paragraph 39A(1)(b) are met.

23. The ParkLog Report does not detail if all the conditions listed under subsection 39A(1) have been satisfied for a car parking benefit to arise. However, the ParkLog Report captures the cumulative duration of a car parking in a car park. This will capture situations where a car enters and exits the car park for the periods that are each less than 4 hours, but cumulatively add up to over 4 hours that day.

### Calculating the taxable value of car parking fringe benefits

24. In broad terms, the calculation of the taxable value of the car parking fringe benefits provided during a year involves the following 3 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, and
- 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).

25. The ParkLog Report 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 for the commercial parking method as set out in section 39C
- market value method as set out in section 39D, or
- average cost method as set out in section 39DA.

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

26. The number of benefits may be calculated using one of 3 options:

- keeping actual records of all car parking benefits provided
- using the statutory formula method, or
- using the 12-week register method.

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

***Actual benefits method***

28. An employer may choose to calculate the number of taxable car parking benefits it provides by using a record of the actual number of car parking benefits provided in an FBT year (the actual method).

29. The general record-keeping requirements are set out in subsection 132(1) and requires employers to keep appropriate records which form the basis upon which the FBT liability is determined. This general record-keeping requirement applies equally to records which explain the calculation of car parking benefits. Subsection 132(3) requires that records 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.

30. In order to use the actual method, an employer must keep records that are sufficient to determine the actual number and value of car parking benefits provided during an FBT year.

31. The ParkLog Report records the dates and times at which the cars are parked at a particular location on an ongoing basis. This information is used to prepare the ParkLog Report. It is accepted that this report is sufficient for an employer to establish the actual number of car parking benefits provided at a particular car park premises.

32. However, as stipulated in Division 10A, 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 Division 10A, or the 12-week register method in Subdivision D of Division 10A, to determine the number of car parking benefits provided to particular employees, or employees of a particular class.

33. Therefore, the ParkLog Report may be used to determine the number of car parking benefits that arose for particular car park premises, where the employer makes an election under:

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

***12-week register method***

34. An employer may 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.

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35. In specifying the employees to which the election relates, subsection 39GA(2) states that the election must cover all employees, employees of a particular class or particular employees.

36. Under Subdivision D of Division 10A, an employer may elect to keep a register, for a continuous 12-week period, to determine the total value of car parking fringe benefits for an FBT year. The employer may keep separate registers for different classes of employees.

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

**Total value of car parking benefits (register) × 52 ÷ 12 × Number of days in car parking availability periods ÷ 366**

Where:

- **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.
- **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.

38. Section 39GE provides that in keeping the register, the 12-week period must be continuous and representative, otherwise the register is invalid.

39. If the 12-week period falls within 1 FBT year, it is valid for that year and the following 4 FBT years. If the 12-week period spans across 2 FBT years, the register is only valid for the second and subsequent 4 years.

40. 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.

41. 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 actual benefits method.

42. If the number of car parking fringe benefits increases by more than 10%, the employer will have to keep a new register in the FBT year following the year of the increase if the employer wants to use the method in Subdivision D of Division 10A for that following year.

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

**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).

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- (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.

44. In considering the requirements in paragraph 43 of this Ruling, the ParkLog Report:

- is produced for a minimum 12-week period
- shows the date(s) on which each car is covered by the Report was parked
- shows whether the car was parked for longer than 4 hours
- shows the place where the car was parked, and
- shows that the entries are made as soon as a car enters or exits from the car park, and the cumulative time parked exceeds 4 hours.

45. The ParkLog Report does not include details of whether the car was used to travel between the employee's place of residence and primary place of employment. Provided that the employer using the report includes this detail, it is accepted that the ParkLog Report can be used to determine the total number of benefits provided during the 12-week period.

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## References

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Related Rulings/Determinations:

TR 2021/2

*Legislative references:*

- - FBTAA 39A(1)
- - FBTAA 39A(1)(b)
- - FBTAA 39C
- - FBTAA 39D
- - FBTAA 39DA
- - FBTAA 39FA(1)
- - FBTAA 39GA(1)

- - FBTAA 39GA(2)
  - - FBTAA 39GE
  - - FBTAA 39GG
  - - FBTAA 39GG(1)(c)
  - - FBTAA 132(1)
  - - FBTAA 132(3)
  - - FBTAA Pt III Div 10 Subdiv B
  - - FBTAA Pt III Div 10A
  - - FBTAA Pt III Div 10A Subdiv B
  - - FBTAA Pt III Div 10A Subdiv C
  - - FBTAA Pt III Div 10A Subdiv D
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ATO references

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