PCG 2018/3EC - Compendium

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Public advice and guidance compendium – PCG 2018/3

This is a compendium of responses to the issues raised by external parties to draft Practical Compliance Guideline PCG 2017/D14 *Exempt car and residual benefits: compliance approach to determining private use of vehicles.*

Note: This draft PCG has finalised as PCG 2018/3 *Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles*.

This compendium of comments has been edited to maintain the anonymity of entities that have commented.

Summary of issues raised and responses

Issue No.	Issue raised	ATO Response/Action taken
1	**Exempt vehicles** The term `exempt vehicle' is highly misleading. A more accurate term would be concessionally taxed vehicles.	The title of the Guideline has been updated to 'exempt car benefits and exempt residual benefits' to reflect the terms as utilised in sections 8 and 47 of the *Fringe Benefits Tax Assessment Act 1986*[1] respectively. Elsewhere in the Guideline the terms 'eligible vehicles' and 'car-related exemptions' are utilised.
2	**Practical application of the Guideline to reduce compliance costs** It is difficult to identify what the compliance costs savings outlined by the Commissioner at paragraph 2[2] would be or the practical utility of the Guideline. The Guideline requires the obtainment of detailed records/examination of an employee's private use of an eligible vehicle. As most employers will not be able to obtain such records without considerable effort, the great majority of employers will find that the Guideline offers no assistance. It would be extremely rare for an employee's private use to be limited to the private kilometres travelled as outlined in paragraph 5(g). As such the utility of the Guideline is limited and it is overly restrictive. It will make compliance for those	The compliance approach outlined in the Guideline provides an alternative way an employer can determine if they satisfy the car-related exemptions. Adherence to the approach is optional. Employers will need to determine if it is suitable for their individual circumstances (such as whether adhering to the Guideline does result in a compliance cost saving for them). Where an employer does not rely on the Guideline they will need to rely on the relevant provisions of the

[1] All legislative references are to this Act unless otherwise stated.
[2] Paragraph, footnote and example references in this Column of the compendium are references to PCG 2017/D14.

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	who try to do the right thing even more troublesome. Those that abuse the car-related exemptions will continue to do so. The use of practical compliance guidelines are a good idea. However, the application and practical nature of guidelines considerably reduces their benefit. In the context of the car-related exemptions there are a number of legislatively prescriptive tests to be satisfied. The Guideline then seeks to add an additional three more requirements that an employer must apply to determine if the private use is exempt to access the car-related exemptions. These requirements are more onerous than what is currently required under the legislation. For this reason, we would not seek to rely on it as it creates additional compliance in order for us to ensure that we satisfy the requirements. It is for this same reason we also do not rely on Practical Compliance Guideline PCG 2016/10[3], as it equally also creates more compliance if we wished to apply the simplified approach to our business use percentage. An employer could only rely on the Guideline where they have fulfilled the requirements of the Guideline (including monitoring private use) and the employee's private use of the vehicle was slightly more than minor. If the use was minor, the vehicle would already meet the car-related exemptions. Accordingly the Guideline is limited in its practical utility. The Guideline is likely to result in misuse of the car-related exemptions or result in employers not accurately reporting their FBT liability. Consideration should be given to practical scenarios for example where eligible vehicles are used for private journeys for safety reasons. The Guideline appears to be predicated on the basis that all kilometres travelled are business unless they have been recorded as private use. If employees are required to maintain records of their private use in order to rely on the Guideline than the Guideline does not reduce compliance costs as this is not currently required in order to access the car-related exemptions. The Guideline has not identified a means for employers to track and assess	fringe benefits tax (FBT) law to determine if they can access the car-related exemptions. The Guideline does not outline the Australian Taxation Office (ATO) view on the operation of the car-related exemptions and operates within the existing FBT law. It does not represent a change in ATO view. The requirements that an employer is to satisfy to rely on the Guideline have been clarified, in order to reduce compliance costs and increase the utility of the Guideline.

[3] Practical Compliance Guideline PCG 2016/10 *Fleet Cars: simplified approach for calculating car fringe benefits*.

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	these parameters which is not administratively burdensome and counter to the stated intentions of the Guideline. A clearly stated employer policy on the appropriate use of the eligible vehicles together with the collection of employee declarations confirming the appropriate use is a reasonable approach which meets the stated intentions of the Guideline.	
3	**Application of the Guideline to privately owned companies** The Guideline should be restricted to applying to privately owned companies as this is where the risk would lie. Listed companies have measures in place to ensure private travel is limited.	The compliance approach outlined in the Guideline is intended to apply to all employers. Employers will need to determine if it is suitable for their individual circumstances (for example, where they satisfy the relevant provisions of the FBT law and can access the car-related exemptions based on their current measures in place that limit the private use of eligible vehicles). The ATO has identified instances where employers (both small and large business employers) incorrectly apply the car-related exemptions. For more information on the behaviours and characteristics that may attract our attention in relation to FBT, refer to What attracts our attention.
4	**Itinerant workers** The Guideline should make a distinction between those using eligible vehicles for itinerant work and those that work mainly at a single location. A deemed private use percentage could apply to itinerant workers based on a comparative sample of log books for similar occupations.	The compliance approach is intended to apply to all employers. It is acknowledged that based on the travel conducted by employees of particular industries, the compliance approach would not reduce compliance costs for some employers. To this extent employers will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions. Employers may lodge a request for a private ruling on the application of the car-related

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		exemptions where they require a greater level of certainty in relation to the application of the law to their arrangements.
5	**Applying the operating cost method to eligible vehicles** The significant difference between eligible vehicles and other non-commercial vehicles is that work-related travel in an eligible vehicle is exempt. In outlining a private use percentage that will not result in a FBT liability for an employer it could significantly change the 'business use' percentage that would otherwise be achievable for a non-commercial vehicle. This would enable employers to consider adopting the operating cost method and pay some FBT where the vehicle is being used more than an acceptable amount for private use.	If an employer chooses not to rely on the Guideline, or does not satisfy the requirements of the Guideline, the employer will need to calculate the business use for the purposes of determining the taxable value of the car and residual fringe benefits they provide based on all private use and not only the use that exceeds the kilometres prescribed in paragraph 6.[4] Refer to ATO Interpretative Decision ATO ID 2012/96.[5] Where the employer chooses to rely on the Guideline and satisfies the requirements in the Guideline, the employer can access the car-related exemptions.
6	**Application of Guideline to travel undertaken between work locations** The vehicles that the Guideline applies to are work vehicles, often used to carry equipment to job sites, and are commonly used by tradespeople. This Guideline does not appear to consider the work related travel these vehicles undertake during the day in addition to the home to work/office travel, which then limits the practical application. The examples that have been included in the Guideline are overly simplistic. In the examples, noting example 1 for ease, the 30,000 kilometres can be determined relatively easily by calculating the distance from the employee's home to work/office. This will not be possible where the employee travels to	Miscellaneous Taxation Ruling MT 2027[6] outlines the distinction between business and private use of a car. Where an employee uses a car to travel in the course of the employee's employment (that is if they travel to different work sites during the day) this travel is business travel. An employer will need to determine if the private use has been limited to work-related travel or travel that is minor, infrequent and irregular in order to access the car-related exemptions. The Commissioner of Taxation acknowledges

[4] Paragraph and example references in this Column of the compendium are references to PCG 2018/3.
[5] ATO Interpretative Decision ATO ID 2012/96 *Fringe Benefits Tax Car fringe benefits: business journey.*
[6] Miscellaneous Taxation Ruling MT 2027 *Fringe benefits tax: private use of cars: home to work travel*.

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	different work sites each day, which is consistent with many tradespeople who drive these vehicles and where the business travel is not a consistent amount each day. The equation being used where you take 30,250 less the 30,000 'home to work' allowance does not allow for travel at work, which would make this example worthless. In reality there will be much more than the 30,000 business kilometres travelled. That is, 30,000 between the employee's home and work/office plus, for example, another 20,000 to undertake the work which requires the use of the vehicle during the day. This travel may be between home and the job site, or between the work/office and a job site. The vehicle would then have travelled 50,250kms and the exercise will be to determine how much of the 20,250 kilometres is private. This Guideline will only provide assistance in very limited circumstances, that is where the vehicle is only driven between the home and business premises. The Guideline is based on the proposition that an employee's work related travel could be easily determined based on the distance between their home and work.	that in some instances it may be difficult to determine the number of private kilometres travelled based on the odometer reading for the purposes of the Guideline. By removing the requirement that employers conduct checks of odometer readings to compare business kilometres and home to work kilometres travelled by the employee against the total kilometres travelled; it will reduce the record keeping requirements and compliance costs for employers. The examples have been amended to illustrate where an employer is able to rely on the Guideline. The compliance approach outlined in the Guideline provides an alternative way an employer can determine if they satisfy the car-related exemptions. Adherence to the approach is optional. Employers will need to determine if it is suitable for their individual circumstances. Where it is difficult to adhere to the requirements of the Guideline, the employer will need to rely on the relevant provisions of the FBT law to determine if it can access the car-related exemptions.
7	**Non-work related travel and minor, infrequent and irregular** The Guideline should define what is non-work related travel to make the distinction between work-related travel and limited private use clearer. That is, it should outline that non-work related travel is other private use of the vehicle by the employee or an associate of the employee which is minor, infrequent and irregular. It then should outline that for non-work related travel, the use by the employee or associate must satisfy all three terms: minor, infrequent ***and*** irregular. The Guideline currently outlines what is considered to be minor travel at	The structure and content of the Guideline has been simplified to more clearly articulate the Commissioner's compliance approach. The purpose and intent of the Guideline is to remove the complexity and to minimise compliance costs for employers in determining whether they can access the car-related exemptions. It is not intended to outline the ATO view of the application of the car-related exemptions, which

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	subparagraphs 5(g)(ii) and (iii) and does not clarify what travel is considered to be irregular and infrequent. It would be helpful for the Guideline to outline what is infrequent and irregular travel (for example, infrequent of less than three other private journeys and irregular if other private journeys were to different destinations or one-off by reference to a log book and employee declarations). This will ensure adherence to the legislative requirements that non-work related is minor, infrequent and irregular.	includes the requirement that private use be minor, infrequent and irregular.
8	**Eligible vehicles – one tonne load capacity** In order to satisfy paragraph 5(a) a panel van or single cab ute must be designed to carry a load of one tonne. The payload capacity for accessing the car-related exemptions should be increased to 2,000 kilograms in order to reflect a proper commercial vehicle and that the plethora of 4x2 and 4x4 vehicles with 1,000 kilograms payload capacity are no longer available. By limiting the compliance approach to eligible vehicles it will result in employers and employees purchasing these vehicles solely to take advantage of the exemption.	In order to satisfy the car-related exemptions, the vehicle must be an eligible vehicle and satisfy the relevant legislative definitions. Whilst it is acknowledged that this results in a limited number of vehicles satisfying the definition, the legislation is prescriptive in defining the vehicles that are eligible for the exemption. Similarly the vehicles that are eligible vehicles for the purposes of the Guideline are the same type of vehicles that are exempt for the purposes of accessing the car-related exemptions. Broadening the scope of eligible vehicles would be contrary to policy intent.
9	**Eligible vehicles – load capacity in excess of one tonne** The Guideline needs to make it clear whether it relates to the car-related exemptions under both subsections 8(2) and 47(6) and those vehicles with a load capacity under one tonne and in excess of one tonne. While both these subsections are mentioned at paragraph 1 all the examples refer to vehicles with less than one tonne carrying capacity.	The Guideline applies to eligible vehicles that satisfy the requirements under either subsection 8(2) or 47(6).
10	**Eligible vehicles – e-bikes** Clarity is needed as to whether an e-bike is an eligible vehicle and to what extent the Guideline applies to e-bikes.	Whether a particular vehicle is an eligible vehicle depends on the characteristics of the vehicle (for example, if it is designed for the principal purpose of carrying passengers or is designed to carry a

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		load of less than one tonne). To the extent that a particular vehicle is an eligible vehicle (and the other requirements of the Guideline are satisfied) the Commissioner will not devote compliance resources to review that the employer can access the car-related exemptions for that employee. The Commissioner has considered that an E-stralian electric bicycle is an eligible vehicle in Class Ruling CR 2015/80.[7] However, that class ruling only applies to the defined class of entities who take part in the scheme as described in that Ruling. Refer also to ATO Interpretative Decisions ATO ID 2001/313[8], ATO ID 2009/140[9] and ATO ID 2010/163.[10]
11	**Eligible vehicles – principal purpose of carrying passengers** In order to be an eligible vehicle the vehicle must not be designed for the principal purpose of carrying passengers. Miscellaneous Taxation Ruling MT 2024[11] outlines the formula for determining carrying capacity at paragraph 15 by reference to 68 kilograms. This figure should be reviewed as it is outdated according to the Australian Bureau of Statistics and may be understated by 20 kilograms.	It is outside of the scope of the Guideline to consider the requirements of what constitutes an eligible vehicle for the purposes of the car-related exemptions. For more information about how to work out the load carrying capacity of a dual or crew cab vehicle, refer to Load carrying capacity calculation. It is noted that the figure is consistent with the figure adopted for the purposes of the application of the Australian Design Rules as outlined in MT 2024. The method outlined in in

[7] Class Ruling CR 2015/80 *Fringe benefits tax: use of an E-stralian electric bicycle (e-bike) by an employee.*
[8] ATO Interpretative Decision ATO ID 2001/313 *Fringe benefits tax: exempt residual benefit.*
[9] ATO Interpretative Decision ATO ID 2009/140 *FBT Exempt benefits: free travel on bus – private use.*
[10] ATO Interpretative Decision ATO ID 2010/163 *FBT Exempt Benefits: motor vehicle not for private use-tram?*
[11] Miscellaneous Taxation Ruling MT 2024 *Fringe benefits tax: dual cab vehicles eligibility for exemption where private use is limited to certain work-related travel*.

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		paragraphs 14 to 16 of MT 2024 only applies to dual cab or crew cab vehicles.[12]
12	**Date of effect and retrospectivity** Providing a defined guideline for an issue that has broad application across a range of industries and employers should not be applied retrospectively. This Guideline should be finalised and issued for employers to adopt in the next FBT year (that is from 1 April 2018). This will allow appropriate processes and systems to be put into place to capture the information required for testing compliance with the Guideline. It will also allow for employees to be informed about the changes and amendments to be made to manuals and other documentation.	Employers can choose to rely on this Guideline in preparing and lodging their FBT return for the 2019 FBT year (1 April 2018 to 31 March 2019). Employers will need to be able to satisfy themselves that they have met the requirements of the Guideline in this year in order to apply the Guideline. PCG 2017/D14 sets out the Commissioner's compliance approach for car and residual benefits provided in the 2018 FBT year where employers, who satisfy the requirements in paragraph 5 of the earlier draft PCG, have chosen to rely on the earlier guideline.
13	**A single requirement** In order to ensure the Guideline has practical utility, rather than prescribing the three requirements at paragraph 5(g), it should outline one single requirement that must be satisfied. The requirement should outline that any private travel that does not exceed a certain kilometre threshold (for example 1,000 or 750 kilometres) in total per annum is minor or prescribe a maximum overall percentage of private use that is allowed (for example that travel undertaken for a wholly private purpose not exceed 1 to 10% of the total work-related kilometres travelled in the eligible vehicle for the FBT year). This would be a practical and workable solution. Most employers already apply such an approach when eliminating private travel especially where they have a large fleet of eligible vehicles. The current three requirements are onerous and result	It is acknowledged that there are different approaches to determining what travel is 'minor, infrequent and irregular'. Paragraph 6 outlines the parameters, which if satisfied, the Commissioner will not apply compliance resources to determine if the employer can access the car-related exemptions or require records to be maintained. The use of a maximum overall percentage may create distortions and inequities amongst employers and lead to additional monitoring requirements. In particular, applying a maximum overall percentage is necessarily retrospective as

[12] Refer also to Taxation Determination TD 94/19 *Fringe benefits tax: is the method outlined in Taxation Ruling MT 2024 appropriate for determining whether a vehicle, other than a dual or crew cab, is 'designed for the principal purpose of carrying passengers' and thereby ineligible for the work-related use exemption available under subsection 8(2) of the Fringe Benefits Tax Assessment Act 1986?*

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	in additional compliance for employers. Furthermore, in prescribing a percentage single requirement, it would overcome the current discrimination between employees located in regional compared with city areas. It would allow a number of private kilometres relative to use rather than an arbitrary number and reflect pattern of use. Prescribing a maximum overall percentage of private use that is allowed may require a log book to be kept for a 12 week period, but that would be far more practical than trying to track the three requirements at paragraph 5(g). If the maximum percentage approach is adopted in the Guideline, the Guideline could outline that where the log book demonstrates less than allowed percentage is used, no further action needs to be taken by the employer. However, it could then outline that if the percentage of use is greater than allowed in the Guideline, the employer can then choose to adopt the operating cost method and apply FBT on the amount **over** the allowable percentage.	employers will not know until the end of the FBT year (when the total kilometres travelled are known) if they can rely on the Guideline. See also the ATO Response to Issue 5.
14	**Minor, infrequent and irregular tests** By using the kilometre requirements in paragraph 5(g), the Guideline is inconsistent with Taxation Ruling TR 2007/12.[13] Taxation Ruling TR 2007/12 provides an example of the application of the minor, infrequent and irregular tests in section 58P to a car benefit at paragraphs 73 to 75. In applying the test, TR 2007/12 does not focus on the distance travelled for each of the journeys. Instead, it looks at the value of each of the benefits (to determine if the notional taxable value using the cents per kilometre method was less than $300), how often the benefits were provided and whether the benefits were provided on a regular basis. The same approach should be adopted when considering the minor, infrequent and irregular test in subsections 8(2) and 47(6) and for the purposes of this Guideline.	While TR 2007/12 and section 58P consider the value of the benefit, it is considered that a similar approach is not required for the purposes of the car-related exemptions. The Commissioner acknowledges that there may be other methods employers choose to determine if they can access the car-related exemptions.
15	**Requirements at paragraph 5** The requirements in paragraph 5 are arduous. It is understandable that the	Paragraph 6 has been reviewed to clarify the minimum requirements that an employer must

[13] Taxation Ruling TR 2007/12 *Fringe benefits tax: minor benefits.*

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	Commissioner would want to limit the application of the compliance approach but rather than create arbitrary guidelines, the existing rules should be refined (for example, no business accessories and limiting the engine size). Furthermore, the requirements at paragraph 5 relate to the determination of whether a benefit has been provided, rather those that relate to the classification of a benefit as an exempt benefit or fringe benefit.	satisfy in order to rely on the compliance approach outlined in the Guideline.
16	**Period in which the vehicle was held** The Guideline should outline that to qualify for this exemption, the vehicle must be used in the prescribed way **for the entire FBT year** or for the period the vehicle was held. So, for example, the exemption won't be available at all where an employer provides an employee with a vehicle for the entire year but they only use it in the prescribed manner for half the year.	The structure and content of the Guideline has been simplified to more clearly articulate the Commissioner's compliance approach.
17	**Paragraph 5(b) – Vehicle provided for employment** The Guideline should clarify what evidence an employer is required to maintain in order to demonstrate that the vehicle is provided to the employee to perform their work duties and, to this extent, satisfies paragraph 5(b). The requirement in paragraph 5(b) should be expanded to make it clear that it includes eligible vehicles used by service providers in performing their work duties (for example where the employee provides a service like a plumber and the vehicle is a tool of trade necessary to deliver the service). The requirement that the vehicle be provided to an employee in performance of their work is strict given that no similar requirement is needed in the legislation.	The Guideline has been updated to clarify the record keeping requirements of employers who choose to rely on the Guideline and to clarify that the eligible vehicle must be provided for business use (refer to paragraph 6). The compliance approach outlined in the Guideline provides an alternative way an employer can determine if they satisfy the car-related exemptions. Adherence to the approach is optional.
18	**Paragraph 5(c) – Monitoring use** The requirement is vague and difficult to enforce. In particular as industrial relations issues may prevent the installation of GPS tracking devices to monitor private use and employers cannot force employees to declare their level of private use. Rather than imposing additional record keeping requirements reference should be made to the record keeping requirements in the FBT legislation (in particular section 7), the *Fringe benefits – a guide for employers*	The Guideline has been updated to clarify the record keeping requirements of employers who choose to rely on the Guideline. In addition, the Guideline has been updated to note that the monitoring requirements will be satisfied where an employer • implements a policy regarding an

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	or Miscellaneous Taxation Ruing MT 2034.[14] The requirement to monitor private use is strict given that there is no requirement to substantiate private use is limited in the FBT legislation. Accordingly, if private use is minor, infrequent and irregular employers would not need to rely on this Guideline; limiting the practical utility of this Guideline. Employers are already required to monitor private use as outlined in paragraph 5(c) in order to rely on the car-related exemptions. This Guideline then requires employers to calculate what the reasonably expected work-related travel is in order to calculate the difference. This may not be particularly practical, given that employees are not always diligent at providing odometer records and where the business travelled each day is not consistent. A comparison of the annual odometer reading and the employee's estimated annual travel distance between work and home would not produce a reliable estimate of the employee's wholly private travel during the period. The term 'reasonable steps' should be defined or removed as it is open to interpretation and will lead to requests for private rulings. Guidance should be provided on how an employer is to 'take all reasonable steps to limit private use of the vehicle' and how the employer should monitor that the kilometres travelled do not exceed the requirements of the Guideline. At the moment the only guidance is provided at footnote 5 and paragraph 12. As such greater certainty around the expectations of an employer to monitor its processes for limiting private use should be provided. For example the Guideline could note that paragraph 5(g) would be satisfied if their employer conducts a sample audit of 5% of eligible vehicles and checks odometer readings employee role, work locations and GPS records. Alternatively it could outline logbooks illustrating less than 175 kilometres of private travel over 12 weeks is sufficient for substantiation and an employer is able to rely on the Guideline for a period of three years based on the log book provided there is no substantial change to circumstances.	employee's private use of eligible vehicles • requires employees to assure them that the employee has remained within the policy, and • is satisfied with the employee's assurance. The examples have also been amended to illustrate where an employer is able to rely on the Guideline. By removing the requirement that employers conduct checks of odometer readings to compare business kilometres and home to work kilometres travelled by the employee against the total kilometres travelled; it will reduce the record keeping requirements and compliance costs for employers. Employers are required to maintain oversight of an employee's use of the vehicle in order to rely on the Guideline and to communicate with their employees in relation to their use of the eligible vehicle to ensure they satisfy the requirements at paragraph 6.

[14] Miscellaneous Taxation Ruling MT 2034 *Fringe benefits tax: private use of motor vehicles other than cars*.

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	It is implied that employers must monitor the use of the vehicles and check they meet the requirements of the Guideline annually by comparing total kilometres travelled to home to work travel and wholly work trips. However, there should be evidential checks and monitoring carried out throughout the year in the form of a diary or logbook. The Guideline should also specify that an employer policy stating only limited private use is allowed would not be considered sufficient to be eligible for the exemption. Evidence would need to be obtained to show that the vehicle is not used whilst they are on annual leave and the employee has another vehicle available for them to use within their family unit. Additional evidence that would illustrate work-related use should also be obtained (for example, nature of work undertaken by the employee and whether tools and equipment are required to be carried). The suggestion at example 1 of an employer demonstrating that a policy is monitored is likely to require an employer to undertake the collection of data from various sources and analysis of the data to determine if the requirements of paragraph 5(c) have been met is burdensome. Few employers would be able to obtain such records without considerable effort and as such most employers will not likely rely on the Guideline. Rather than requiring monitoring, the Guideline should note that records are not required to be maintained if the employer has policies in place to limit private use and employees confirm adherence to the policies through obtaining declarations. Alternatively it should allow for a sampling exercise to be undertaken to determine, the level of private use. This is a reasonable and less administratively burdensome approach to monitoring the permissible use of the vehicle. There is an inherent point of confusion between the reliance expressed in paragraph 6(a) and the record keeping requirements under paragraph 5(c). These requirements are mutually exclusive.	
19	**Paragraph 5(d) – Use of the term 'non-business' accessory**	It is acknowledged that in some instances, non-business accessories may be required for

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	The use of the term non-business accessories in subparagraph 5(d) is confusing. It is unclear whether a new term is intended to be introduced to refer to a safety accessory or whether it is a reference to the term as defined in the legislation. Footnote 6 introduces a distinction between non-business accessories and non-business safety accessories. Many non-business accessories improve the quality and sustainability of the vehicle as a workplace and in turn improve the work place health and safety of the employee. In particular where the distances travelled are significant and non-business accessories are a necessary part of the safe operations of the vehicle. For example, a sophisticated stereo system for work-related long distance driving which would greatly benefit the mental health of the employee. Such a non-business accessory is added by an employee to personalise their work environment and allows them to better perform their duties where they spend a lot of time travelling for work. The non-business accessories requirement should be removed. It is unnecessary to exclude vehicles with non-business accessories for no sensible reason. The majority of vehicles are now sold with accessories that may be non-business accessories (and may not be a safety accessory) such as GPS systems. This will result in the majority of vehicles not satisfying the requirements in paragraph 5. The motivation behind this particular requirement is an assumption that non-business accessories tend to point against the position that the purpose of the provision of the vehicle is primarily for work purposes. However, there is no express requirement in the legislation for such a requirement. It is unclear why regard is needed to be had to non-business accessories where the luxury car tax threshold requirement at paragraph 5(e) would ensure that vehicles fitted with expensive accessories do not fall within the Guideline. Similarly, the requirements in paragraphs 5(b) and 5(f) also ensure that there is no misuse of the Guideline. Whether or not a non-business accessory is fitted to the car does not reflect the vehicles use. That is a vehicle may be fitted with a tow-bar and trailer to enable	business use. Accordingly, the Guideline has been updated to remove this requirement. However, employers are required to assure themselves that the eligible vehicle (and the accessories fitted) is required by the employee for business use and to enable the employee to perform their duties. It is beyond the scope of the Guideline to outline the ATO view on what is a business accessory. The ATO will engage in further consultation to identify if further guidance is required, or if our current ATO view requires clarification, in respect of non-business accessories.

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	the employee to transport its yacht on the weekend. The tow-bar or trailer does not reflect the actual use of the vehicle which is the relevant consideration for the purposes of accessing the car-related FBT exemptions. Additional guidance should be provided as to what constitutes a non-business accessory. Clarity should also be provided around whether floor mats, protective coatings or paint protection (which are used for business purposes to protect the vehicle from wear and tear and increasing the vehicle's effective life) are non-business accessories for the purposes of the Guideline. Whether a particular accessory is a 'business accessory' depends on the specific circumstances of the employer's business operations and may be fitted for commercial reasons. Reference should be made to 'non-business accessories not directly related to the employee's work' where the intention is for vehicles fitted with accessories that are inherently private in nature being excluded from the Guideline. The ATO view of the definition of 'non-business accessory' should be reviewed. It is unclear whether window tinting (where this is required under the relevant occupational health and safety guidelines for an employer) would result in the vehicle being excluded from the Guideline. This is particularly so given that under the current ATO guidance, window tinting is considered to be a non-business accessory (ATO Interpretative Decision ATO ID 2011/47[15] and chapter 7.4 of *Fringe benefits tax – a guide for employers*). Accordingly, the footnote should note that window tinting or nudge bars (in particular where they are fitted to vehicles used in regional areas to cover animal strikes and off-road site access) are safety non-business accessories. Alternatively the requirement should be that the employer has a safety policy that requires the vehicle to be fitted with safety accessories. Vehicles with non-business accessories such as paint protection, fabric protection and window tinting may satisfy the car-related exemptions and be exempt from FBT. Excluding such vehicles from the Guideline is confusing and	

[15] ATO Interpretative Decision ATO ID 2011/47 *Fringe Benefits Tax: Car fringe benefits: non-business accessory*.

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	not helpful in assisting employers to comply with their obligations because it indicates to the employer that fitting non-business accessories means the car-related exemptions do not apply. Some accessories may be added for marketing and signage purposes and the addition of such accessories should not result in the vehicle being excluded for the purposes of the Guideline.	
20	**Non-business accessories – e-bikes and child seats** The Guideline should clarify whether the fitting of a child seat to an e-bike will result in the car-related exemptions not being available to e-bikes based on the Guideline.	See the ATO response to Issues 10 and 19.
21	**Paragraph 5(e) – luxury car tax threshold** It is not clear why the vehicle, in order to satisfy the requirements of the Guideline, must have a GST-inclusive value less than the luxury car tax threshold. This requirement creates inequity between employers in different industries and limits the utility of the Guideline. This requirement should be removed as: • There is no longer a motor vehicle manufacturing or assembly industry in Australia that manufactures a vehicle that would satisfy this requirement (for example, a Double Cab and Extra Cab Utility or Four Wheel Drive). • It is inconsistent with the FBT legislation as a similar requirement does not exist in the legislation. • It suggests that the value of the vehicle is a key consideration for whether the vehicle meets the car-related exemptions when it should be about the use of the vehicle. • It suggests that vehicles in excess of the limit are luxury vehicles and not commercial vehicles and that the purpose of the provision of the vehicle that exceeds the threshold is not primarily for work purposes.	The reference to the threshold is not linked back to the FBT legislation. The requirements outlined in paragraph 6 are a reference to the minimum requirements that the Commissioner is prepared to accept for the purposes of the Guideline. In circumstances where the vehicle exceeds the threshold, the employer will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.

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	• Many commercial vehicles have a purchase price in excess of the limit in particular where occupational health and safety requirements mean that the vehicle must have a 5 star ANCAP rating. • Limits the practical application and usefulness of the Guideline. The inclusion of this requirement means that most employers cannot rely on it. The requirements in paragraphs 5(b), 5(d) and/or 5(f), together with paragraph 5(g), are sufficient to ensure that there is no misuse of the exemption without the need to have regard to the value of the vehicle. Consideration should be given to referring to the car depreciation limit as the legislation in relation to luxury car tax considers cars that may not be eligible vehicles and in determining the cost of a car for FBT purposes reference is made to the car depreciation limit rather than the luxury car tax threshold.	
22	**Paragraph 5(f) – salary packaging arrangement** Further context is required to understand the purpose of this requirement. In particular, how it applies in practice, the background and rationale given that this does not reflect how a vehicle is selected and used which is the relevant criterion. The requirement should be removed. The motivation behind this particular requirement is an assumption that salary packaging tends to point against the position that the purpose of the provision of the vehicle is primarily for work purposes. However, there is no express requirement in the FBT legislation. Any attempt to prevent the provision of an exempt vehicle by way of salary packaging should have a legislative fix. In addition, it is unclear how the Guideline applies in the context of novated leases or if it is intended to apply to novated leases. If it applies to novated leases it may result in the type of vehicles provided under a lease being exempt vehicles only. It may be reasonable to assume there would be a greater level of private use if someone is prepared to enter into a salary packaging arrangement for a vehicle.	The compliance approach outlined in the Guideline is intended to apply to eligible vehicles provided primarily for business use. In some instances vehicles provided under a salary packing arrangement are provided primarily for private use. By excluding eligible vehicles provided under a salary packaging arrangement under the Guideline, it ensures that employers are able to rely on the Guideline for those vehicles that are more likely to be provided solely for business use with limited private travel. Employers can rely on the relevant provisions in the FBT law to determine if eligible vehicles provided under a salary packaging arrangement are exempt from FBT.

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	An employee may choose to salary sacrifice part of the purchase price to upgrade from the standard vehicle offered by their employer and in this instance the employer should be able to rely on the Guideline.	
23	**Paragraph 5(g) – prescribed kilometres** A better approach may be to compare the kilometres travelled to the fuel costs. This is as a fuel card is often provided for work related travel by employers but employers are unlikely to provide fuel for private travel. Alternatively all of the requirements should be defined in percentage terms rather than in fixed kilometres in order to reflect relative usage of a vehicle for employment as opposed to minor private use. The numeric requirements imposed are extremely prescriptive and requires precise monitoring that does not reflect the pattern of use of the vehicle. In particular in situations of high employment related mileage and/or where employees are living long distances from their workplace. Accordingly the parameters should be more realistic. The three kilometre requirements, and in particular their interaction, are not well expressed. They appear to read as if all three need to be satisfied for a FBT year. However the examples do not support this interpretation. The subparagraph should be redrafted to make its intention clearer. Miscellaneous Taxation Ruling MT 2034 and TR 2007/12 should also be considered in this context. Miscellaneous Taxation Ruling MT 2034 allows for the c/km method as an appropriate means of valuing the usage of a residual vehicle and TR 2007/12 allows for the application of the $300 threshold to be applied per journey. When you calculate a taxable value in accordance with these rulings, you could reduce the taxable value to $nil whereas under the Guideline, the usage would not be considered acceptable. On this basis the requirements in subparagraph 5(g) should be expanded to be more generous in line with the way Australians live and work and to align more closely with the outcomes in MT 2034 and TR 2007/12.	The Guideline has been updated to clarify the requirements that must be satisfied to enable an employer to rely on the Guideline. See also the ATO Response to Issue 13.
24	**Differentiation between city and regional use** There is no one size fit all approach and the requirements in paragraph 5(g)	Additional clarity and practical certainty has been provided in finalising the Guideline. However

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	should allow for different locations. That is the concessions should be more concessional. The application of extremely limited travel distances, such as the two kilometre diversion, the 750 kilometre annual allowance and the 200 kilometre single trip (as outlined at paragraph 5(g)) does not provide any differentiation between city based use versus regional use. The distances travelled in regional areas are often far greater than those in the city, so it is unfair to apply the same kilometre requirements. Different requirements should be applied depending on whether the vehicle is required by the employer to be utilised in regional areas as opposed to city travel. Accordingly, the kilometre distances should be increased to account for the distance travelled in regional areas and the additional cost of conducting business in regional areas. This would, in turn, will assist in attracting and retaining employees in regional areas. It otherwise creates an unjust advantage where an employer is denying an employee to use an eligible vehicle in a regional area for private use because of the distances involved when similar travel by an employee located in the city would be considered limited private use and exempt. For example, an employer may be denying an employee in a regional area travel in a medical emergency (which is often more than a 250 kilometre return trip with no public transport available) because such travel would result in a FBT liability. In practice, upon preparing a FBT return, such an employer may not accurately record their FBT liability for the vehicle as it would not recall the event as it would have been one-off, infrequent and an unusual event. In particular when, compared with the distances travelled for work-related purposes by employees in regional travel the 250 kilometres would be minimal. A city based employee would, comparatively, need to travel only a quarter of the distance to seek medical assistance in an emergency. The private kilometres for employees located in regional areas should be increased to allow for a five to 10 kilometre diversion (at subparagraph 5(g)(i)), a total of 1,000 to 1,500 kilometres for each FBT year (at subparagraph 5(g)(ii)) and a single return trip of 400 kilometres (at subparagraph 5(g)(iii)).	introducing different thresholds for regional or city use would increase compliance costs for employers and complicate the application of the Guideline. The compliance approach outlined by the Commissioner is intended to apply to all employers whether or not they are based in regional or city locations. It is noted that distances travelled by regional located employees may exceed the limits outlined in the Guideline. In this instance, employers will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions based on their current measures in place that limit the private use of eligible vehicles. See also the ATO Response to Issue 13.

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	Alternatively, the requirements at paragraph 5(g) should be based on the percentage of personal use. Paragraph 5(g) should be revised to outline that where the kilometres travelled for wholly private use does not exceed 1% of the total kilometres travelled in the eligible vehicle such travel would be considered minor, infrequent and irregular (with no threshold for a single journey as currently required in subparagraph 5(g)(iii)). Based on the current 750 kilometre requirement in subparagraph 5(g)(ii) this would allow private travel undertaken by a city based employee whose odometer reading was 75,000 kilometres for the year to be exempt if it did not exceed 750 kilometres and for a regional based employee whose odometer reading was 150,000 for the year for private travel that did not exceed 1,500 kilometres to be exempt under the Guideline. This would allow for a regional based employee to travel to their nearest city several times a year and ensure remote and regional employers are not restricted in applying the Guideline.	
25	**Subparagraph 5(g)(i) – diversion** The diversion should be increased (for example to 10 kilometres) and guidance should be provided on how the distance between home and work is calculated. The current two kilometre diversion is unduly restrictive in particular for drivers of eligible vehicles in rural areas, those that live a significant distance away from work and situations of high employment related mileage. The parameters should be more realistic and consider situations of travel congestion or other legitimate reasons for variances (for example, road work detours). It is onerous and impractical for an employer to track every kilometre travelled. In order to meet the requirements, the employer would need to undertake a detailed analysis of diversions and maintain records far more stringent than those currently required by the FBT legislation; increasing compliance costs. Rather than applying a fixed kilometre limit, the Guideline should adopt a compliance saving method for how an employer is required to determine any diversions of more than two kilometres or a percentage method. The term diversion should be defined. It is inconsistent with the long held ATO view and FBT legislation that work-related travel must be exclusively for	Additional clarity and practical certainty has been provided in finalising the Guideline. The Guideline outlines the Commissioner's compliance approach to determining private use of eligible vehicles. It is intended to outline a sensible and efficient approach to the Commissioner's administration of the car-related exemptions. An employer can choose not to rely on the Guideline and instead rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions. The Guideline is not intended to provide the ATO's interpretation of the car-related exemptions.

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	business purposes or travel solely between work and home. It will be difficult to monitor travel to ensure it amounts to a diversion of no more than two kilometres in order to apply the Guideline. If this subparagraph is always meant to apply, then the condition seems to say that the only permissible travel is home to work with minor diversions. It seems the intention of the conditions is to say ***if*** the employee uses the vehicle to travel between home and work that any diversion should not add more than two kilometres. The only explanation as to what is a diversion is provided by the examples where: • example 1 indicates that driving to a newsagent to pick up a newspaper is a diversion, and • example 2 indicates that travel from work to football training is not considered to be a diversion. Putting aside the obvious comment about an employee who drives these types of vehicles being more likely to stop for coffee and/or breakfast/lunch, rather than a newspaper, the question has to be asked as to what factors distinguish the 2 situations. Both involve the employee travelling to a place that is not a work place and not home to do a private activity. Further, if driving to the shop to purchase 1 item (a newspaper) is a diversion, does the classification change if the employee purchases several items (eg. the employee does his or her weekly grocery shopping? If so, at what point does stopping at a shop cease to be a diversion?). However, in reality this is all theoretical as from a practical perspective, it is questionable as to whether anyone (other than the employee) will know an employee has stopped to purchase a newspaper, coffee or breakfast on their way to work. Further, home to work journeys are not recorded in the log book and even if they were, the rounding differences that occur when recording odometer readings will always create a difference between the calculated total distance between home and work and the actual distance recorded on the odometer. For example, assume: • opening odometer reading shown on car dash= 30,250	

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	kilometres • actual opening odometer reading = 30,250.8 kilometres • actual home to work distance = 20.9 kilometres • employee travels to and from work on 240 days (480 journeys) • no other travel is undertaken in the car, and • at the end of the year the odometer reading = 41,282 kilometres (41,282.8 actual). The calculated distance travelled for the year = 480 x 20 kilometres = 9,600 kilometres Distance travelled (according to the odometer) = 41,282 – 30,250 = 10,032 (a difference of 432 kilometres as compared to the calculated distance). In the context of the 4.3% difference created by rounding and the record keeping provisions (which do not require continuous logbooks to be kept), the diversion concept is a meaningless concept and subparagraph 5(g) is impractical to administer.	
26	**Subparagraph 5(g)(i) –travel between home and place of work** The Guideline should clarify that 'place of work' does not need to be the employee's main place of work and includes place of work in which the employee performs the majority of their duties for the day and have regard to the modern working scenarios where there is a change in work locations.	Reference to 'place of work' is a reference to 'place of employment' in the context of the definition of 'work-related travel' as utilised in the definition of subsection 136(1). This includes any place an employee attends for work. Refer to draft Taxation Ruling TR 2017/D6.[16]
27	**Subparagraph 5(g)(ii) – multiple journeys** This requirement should be amended to reflect a 'no more than 5% wholly private purpose test' rather than a specific reference to a distance travelled. This would ensure that there is no discrimination between regional and city employers or where employees live a significant distance away from work.	See the ATO Response to Issue 24.

[16] Draft Taxation Ruling TR 2017/D6 *Income tax and fringe benefits tax: when are deductions allowed for employees' travel expenses?*

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28	**Subparagraph 5(g)(iii) – return journeys** It is unclear why this requirement is necessary. This requirement by itself does not make sense. However 200 kilometres seems to be a reasonable amount.	The Guideline outlines the Commissioner's compliance approach to determining private use of eligible vehicles. It is intended to outline a sensible and efficient approach to the Commissioner's administration of the car-related exemptions. A return journey of more than 200 kilometres is not considered, for the purposes of the Guideline, to be limited private use.
29	**Paragraph 6(a) – record keeping** In order to prove to the Commissioner that the requirements in the Guideline are met, detailed records would need to be maintained and, rather than reducing record keeping requirements it increases them. The Guideline should provide less onerous record keeping requirements than those already in the existing legislation. The Guideline currently requires employers to maintain records that are potentially more than they would need if they did not rely on the Guideline. Rather than introducing new concepts, the Guideline should rely on the same record keeping required for car benefits, that is, log books and employee declarations relying on an estimated private use (see paragraph 15 of MT 2034 and paragraphs 26 and 27 of MT 2034). It is unclear what records are required to be maintained in order to demonstrate to the Commissioner that an employer satisfies the requirements and does not need to keep records or determine if the car-related exemptions apply. Furthermore, it should be made clear that the only records that are required to be maintained where the requirements in the Guideline are met, are the records that demonstrate that the employer complies with the Guideline. Most employers would still require a declaration for substantiation purposes from their employees for exempt benefits. This requirement should be removed to protect integrity of the car-related exemptions and ensure compliance. The Guideline should instead outline that no records are required to be	See the ATO Response to Issue 18. An employer can choose not to rely on the Guideline and instead rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions. The Guideline outlines the Commissioner's compliance approach to determining private use of eligible vehicles. It is intended to outline a sensible and efficient approach to the Commissioner's administration of the car-related exemptions.

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	maintained if a declaration is obtained from an employee that the private travel in the vehicle was limited to that outlined in paragraph 5(g). By not requiring records to be kept; it may result in fabricated log books in particular where the vehicle is provided as part of a novated lease. This paragraph is inconsistent with paragraph 7 and the requirements of each should be clarified.	
30	**Paragraph 6(b) – compliance resources** The view expressed in the Guideline that the 'Commissioner will not devote compliance resources' where the vehicle satisfies the requirements of the Guideline is unhelpful for most employers. The Commissioner should outline that vehicles that satisfy the requirements of the Guideline will be treated by the Commissioner as being exempt from FBT. It is unclear what the ambit of this measure is. This requirement should be removed to protect integrity of the car-related exemptions and ensure compliance.	The circumstances in which the Commissioner will prepare a compliance guideline are outlined in Practical Compliance Guideline PCG 2016/1[17]. In particular at paragraph 6 of PCG 2016/1 it is noted that the ATO can communicate how it will apply its compliance resources or provide practical compliance solutions where tax laws are uncertain in their application or are found to be creating unsustainable administrative or compliance burdens. As such, this Guideline was issued on the basis that the application of the car-related exemptions may create unsustainable administrative or compliance burdens for employers. Where the requirements outlined in paragraph 6 are satisfied the Commissioner will not apply its resources to determine if an employer can access the car-related exemptions for that employee. However where, in reviewing a particular employer, ATO staff identify that there may be excessive private use or the requirements of the Guideline may not be satisfied, ATO staff may review the actual use of the vehicles provided by the employer. Practical compliance

[17] Practical Compliance Guidelines PCG 2016/1 *Practical Compliance Guidelines: purpose, nature and role in ATO's public advice and guidance.*

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		guidelines are not prepared to outline the ATO view of the law.
31	**Paragraph 7** The requirement in this paragraph is somewhat contradictory to the comments contained in paragraph 6(a). It is not clear how employers would demonstrate that they had checked that they continued to meet the requirements in paragraph 5, if they don't need to keep records as indicated by paragraph 6(a). Additionally, it appears to impose an additional compliance burden. As a result the Guideline does not take any significant steps to reduce the administration employers are currently doing in practice, and/or it imposes a greater compliance burden on employers. Typically, employers will have a clearly articulated policy outlining what is reasonable private use of a vehicle, and will collect declarations from employees at year end, confirming that they have adhered to the policy.	See the ATO Response to Issue 18. An employer can choose not to rely on the Guideline and instead rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions. The Guideline outlines the Commissioner's compliance approach to determining private use of eligible vehicles. It is intended to outline a sensible and efficient approach to the Commissioner's administration of the car-related exemptions.
32	**Example 1 – eligible vehicles** Example 1 should be changed to an in-eligible vehicle such as a dual cab as this is the most common eligible vehicle provided by employers. As such a vehicle is able to seat five passengers an employer providing such a vehicle would not be able to rely on the Guideline as the vehicle would be considered to be designed principally of the carriage of passengers in accordance with MT 2024.	Broad examples have been provided in the Guideline to reflect the requirements. It is acknowledged that there are various additional circumstances that could be considered in the examples. Where the vehicle provided is not an eligible vehicle, the requirements in paragraph 6 are not met.
33	**Example 1 – conducting checks** Example 1 outlines that the employer 'conducts checks to monitor the kilometres travelled' and notes the kilometres travelled. However, at paragraph 6 the employer is not required to keep records about the employee's use. It is unclear how the employer is required to demonstrate to the Commissioner that it has conducted checks where it has not kept records as outlined in the Guideline. The comment is vague and needs greater clarity to outline what checking or	Example 1 has been updated. See also the ATO Response to Issue 18.

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	monitoring is required and what other supporting evidence is required to be maintained to demonstrate that monitoring occurred by way of examples. Employers may feel a log book is the best way to demonstrate their travel is monitored and private kilometres are limited. The Guideline should outline how an employer would determine and substantiate that on 10 occasions the employee transported their niece to school on 10 occasions during the FBT year. A third point should be added at paragraph 13 to note that there was no single trip greater than 200 kilometres.	
34	**Example 1 – travel with a passenger** The example should make it clear that carrying a passenger results in the travel being included within the 750 kilometre limit whether or not the diversion adds more than two kilometres to the overall home to work trip (that is that it results in the travel not being work-related travel).	Example 1 has been updated. The transporting of the niece by the employee on their journey from home to work in the van is not work-related travel as outlined in ATO Interpretative Decision ATO ID 2012/98[18] and results in the employee's home to work journey being undertaken for a wholly private purpose.
35	**Example 1 – infrequent travel** The number of times it is accepted that private use is 'minor, infrequent and irregular' in transporting their niece to school should be revised from 10 occasions to one occasion. Refer to Marks, B 1991, *Understanding fringe benefits tax in Australia,* 3rd edition, CCH Australia, NSW, p. 324 as well as ATO ID 2012/98 pursuant to which it would not be considered that the transportation of the niece to school on 10 occasions is minor, infrequent and irregular such that the car-related exemptions would apply to exempt the travel from FBT.	Acknowledged. The Guideline is intended to outline a sensible and efficient approach to the Commissioner's administration of the car-related exemptions. The Guideline is not intended to provide the ATO's interpretation of the car-related exemptions.
36	**Example 1 – kilometres travelled** It is unclear how if the eligible vehicle is provided to perform work duties the	Example 1 has been updated.

[18] ATO Interpretative Decision ATO ID 2012/98 *Fringe Benefits Tax: Exempt car benefits: excepted private use*.

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	30,000 kilometres travelled relates to home to work travel and the total travel is 30,250 kilometres.	
37	**Example 1 – paragraph 12** The requirement that the employer take an odometer reading and compare it to the expected kilometres travelled between home and work is not practical or realistic. It places additional compliance burdens on an employer to determine what the home to work kilometres should have been. Further, in practice it would be difficult to determine the kilometres of work-related travel where an employee travels in the course of their day for work. Consideration should be given to adding an odometer check requirement as described in this paragraph to paragraph 5 as an odometer check is not currently a requirement. The only way an employer could conclude that the business kilometres was 30,000 out of 30,250 kilometres would be to maintain a log book for the full FBT year. This is more onerous than the current legislation requirements. In addition comparing business kilometres to home to work kilometres with total kilometres travelled will not show: • whether any home to work trips were 2 kilometres more than expected, or • whether there were any single return journeys that were more than 200 kilometres. In this regard, example 1 is very confusing as it states: • employee drove niece to school on 10 occasions; • home to work journeys generally do not exceed 20 kilometres (20 km x 2[trips/day] x 240[number of days worked in year] = 9,600 kilometres • extra distance to newsagent = 240 x 2 = 480 kilometres • business kilometres = 30,000, and • total distance travelled in year (per odometer readings) = 30,250	Example 1 has been updated. See also the ATO Response to Issue 18. An employer can choose not to rely on the Guideline and instead rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.

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	kilometres.	
38	**Example 2 – application of FBT** The example should outline that if based on the legislation the benefit is not exempt, the vehicle will result in a car fringe benefit being provided. In such a circumstance, the example should make it clear that all the private use of the vehicle will be taken into account in the calculation of the taxable value of the benefit. If no logbook record is maintained (for example, because the employer incorrectly relied on the Guideline), the statutory formula method must be used to value the value of the car benefit.	The Guideline is not intended to provide the ATO's interpretation of the car-related exemptions. Where an employer does not meet the requirements in paragraph 6, they can rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions. For information on how to calculate the taxable value where a car fringe benefit is provided, refer to Chapter 7.2 of the *Fringe benefits tax – a guide for employers*.
39	**Example 3 – record keeping** While this example is useful as it extends the 'one trip to the tip' example further (and allows the employer to treat vehicles with more personal travel as exempt), the only way an employer could demonstrate that 750 kilometres of the total kilometres travelled is for personal use is to maintain a log book for the whole FBT year. This is more onerous than the current legislation and it is unlikely employers will have sufficient records to be able to substantiate the 750 kilometres.	Example 3 has been updated and outlines an example of the assurance the employer could obtain in order to rely on the Guideline. See also the ATO Response to Issue 18. An employer can choose not to rely on the Guideline and instead rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.
40	**Example 3 – relocation transport** The Guideline should make it clear whether or not the travel undertaken to move residences would be exempt under section 58F as a benefit in respect of relocation travel. For example, it should outline that the change in residence is not undertaken in order to perform the duties of their employment. In particular as the distance between the employee's home to their new residence is approximately 33 kilometres; it could mean that the employee was relocating to be closer to work.	The example does not outline that the employee is required to relocate in order to perform their employment-related duties. Additionally, it is outside the scope of this Guideline to outline whether the travel is exempt under section 58F. For information on the application of the relocations exemptions, refer to Chapter 20.4 of the *Fringe benefits tax – a guide for employers.*
41	**Example 4 – application of the exemption**	The Guideline is not intended to provide the

<table>
<tr><th>Issue No.</th><th>Issue raised</th><th>ATO Response/Action taken</th></tr>
<tr><td></td><td>The example should make it clear that the car-related exemptions would not be available based on the private use of the vehicle by the employee and a car benefit has been provided.</td><td>ATO's interpretation of the car-related exemptions. Where an employer does not meet the requirements in paragraph 6, they can rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.</td></tr>
<tr><td>42</td><td>Examples 3 and 4 – minor travel
The Guideline illustrates the application of subparagraphs 5(g)(ii) and (iii) in examples 3 and 4 which can be summarised as follows:

<table>
<tr><td>PCG 2017/D14 Example 3</td><td></td><td></td></tr>
<tr><td></td><td>Km</td><td>Value</td></tr>
<tr><td>trip to rubbish tip</td><td>100</td><td>$ 63.00</td></tr>
<tr><td>moving residence 3 trips</td><td>200</td><td>$ 126.00</td></tr>
<tr><td>TOTAL</td><td>300</td><td>$ 189.00</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>PCG 2017/D14 Example 4</td><td></td><td></td></tr>
<tr><td>return trip</td><td>300</td><td>$ 189.00</td></tr>
</table>
In applying subparagraph 5(g), the Guideline concludes that the travel in example 3 is exempt, but the travel in example 4 is not minor. The reason given for the different outcome is that the return trip in example 4 is more than 200 kilometres.
In view of the guidelines provided for section 58P in TR 2007/12, this conclusion is very harsh as the total value in both examples is the same. Further, the value in example 4 is only $189 and it is a 'one-off' trip. While a 'one-off' trip can cause the private use to not be considered to be minor, (for example the 'one-off' loan of a four-wheel drive vehicle to enable an employee to travel cross-country during an extended holiday break referred to in the Explanatory Memorandum to the Taxation Laws Amendment (Fringe Benefits and</td><td>The Guideline explains when the Commissioner will not apply compliance resources to determine if private use of eligible vehicles was limited. It is intended to outline a sensible and efficient approach to the Commissioner's administration of the car-related exemption. Employers can choose not to rely on the Guideline and rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions. The Commissioner recognises that there may be other methods employers choose to determine if they can access the car-related exemptions.
See also the ATO Response to Issue 14.</td></tr>
</table>

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	Substantiation) Bill 1987 and in paragraph 134 of TR 2007/12) it is hard to understand why a return 300 kilometre trip does this. For consistency, the Guideline needs to align with TR 2007/12 for the application of the car-related exemptions.	
43	**Additional example on travel related to rental property** The Guideline (or other guidance material) should contain an example to outline whether travel related to rental property will be continued to be otherwise deductible. *Facts:* A construction company employee is given a company ute to use, including to and from work. In April to June 2016 the employee completes a log book for three months. It shows: • Total (annual – actual multiplied by four) kilometres: 10,000. • Work km annual (including between home and work): 8,500. • Travel (annual) related to rental property: 1,000. • Other private kilometres travelled: 500. *Background:* Travel related to rental property (maintenance, inspections, etc.) has been treated as being 'otherwise deductible' with log books confirming no FBT. The log books relied on for this purpose are used for five years unless odometer readings suggested a changed pattern. As from 1 July 2017 the travel related to rental property is no longer deductible due to a legislative change introduced in the May 2017 budget it is unclear if the travel would be otherwise deductible and if new log books are required to be maintained. Many construction workers own rental properties and those that do their own maintenance would likely use the company utes they have been issued for obvious reasons and, if the travel is no longer deductible, the travel related to rental property is likely to push the private kilometres above the requirement in paragraph 5(g) of 750 kilometres per annum.	It is outside the scope of this Guideline to outline whether travel related to rental property is deductible. For information about the deductibility of travel expenses relating to a residential investment property, refer to Rental properties – travel expenses.

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	Questions: It will be useful for the Guideline to clarify: (1) Whether the example satisfies the requirements of the Guideline and the car-related exemptions apply. (2) If travel to maintain a rental property is no longer 'otherwise deductible' from 1 July 2017? (3) If (as the travel is not otherwise deductible) the employer directs from 1 July 2017 that the employee NOT to use the vehicle for such activities, if a new log book required? (4) Whether the employer can still rely on the current log book and treat the travel as otherwise deductible keeping the 'No FBT' status of that vehicle for the life of the log book (five years)?	
44	**Examples** More practical examples are required in the Guideline such as children drop-offs/pick-ups, filling up on petrol, acceptable record-keeping and residual vehicles taking into account the modern working scenarios. The examples do not appear to have considered all permissible categories of travel where the exemption may apply, nor the conditions listed in paragraph 5 to allow the Guideline to be applied. That is under the exemption, there are three possible categories of travel being: (a) deductible travel for work purposes (b) home to work travel (c) other private use. However, the examples in the Guideline use scenarios where there is home to work travel and other private use only. If this was the fact pattern, then how would the condition in paragraph 5(b) (that is, the vehicle is provided to the employee to perform their work duties) be satisfied? The examples seem to suggest that a record keeping concession is to work backwards from total kilometres travelled in a year (deducting a reasonable	Broad examples have been provided in the Guideline to reflect the requirements. It is acknowledged that there are various additional circumstances that could be considered in the examples. Outlining further examples would however increase the length of the Guideline and may be of limited value for all employers. Employers may lodge a request for a private ruling on the application of the car-related exemptions where they require a greater level of certainty in relation to the application of the car-related exemptions to their particular arrangements. The examples have been updated to clarify that the eligible vehicles are provided for business use to enable the employee to perform their work duties. In addition, the examples have been updated to reflect that the employee may

Issue No.	Issue raised	ATO Response/Action taken
	calculation for home to work travel) to identify other private use. This omits to take into account that the vehicle may have been used for deductible travel for work purposes. To take that one step further, if paragraph 5(b) is to be satisfied, it would seem necessary that the vehicle has been used for deductible travel for work purposes. The examples and this approach should be reconsidered. In the absence of detailed logbooks or trip records (which would be unreasonably burdensome and not in line with the stated objectives of the Guideline), it would seem difficult for employers to assess the usage of the vehicles.	undertake travel in performing their work activities. See also the ATO Response to Issue 18.
45	**Minor benefits** The ATO should consider issuing a practical compliance guideline on minor benefits. Failing to issue a guideline in relation to minor benefits is a significant lost opportunity and would have delivered a significant administrative and compliance benefit to employers.	During November 2017 the ATO determined that it could not proceed with a Practical Compliance Guideline on minor benefits, including minor entertainment benefits after consulting with profession bodies, industry representatives and key tax agents. The ATO is unable to provide such a simplified guideline due to the diversity of the minor benefits provided by employers. The ATO proposes to explore whether an amendment to TR 2007/12 or *Fringe benefits tax – A guide for employers* might assist employers in reducing red tape. Refer to consultation matter 201512.