



Explanatory Statement

Income Tax Assessment – Cents per Kilometre Deduction Rate for Car Expenses Determination 2022

General outline of instrument

1. This Instrument is made under subsection 28-25(4) of the *Income Tax Assessment Act 1997*.
2. The Instrument sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.
3. The Commissioner of Taxation has determined the rate to be 78 cents per kilometre for the income year commencing 1 July 2022.
4. The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
5. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Date of effect

6. This Instrument commences on 1 July 2022.

What is the effect of this instrument

7. The effect of this Instrument is to ensure taxpayers and tax practitioners have certainty about the rate at which work-related car expense deductions may be claimed using the cents per kilometre method.
8. This Instrument provides further certainty by ensuring that the rate remains applicable until the Commissioner of Taxation, having regard to subsection 28-25(5), determines that it should be varied.
9. The previous cents per kilometre deduction rate for car expenses of 72 cents per kilometre has been varied to 78 cents per kilometre.

Compliance cost assessment

10. Compliance cost impact: Minor – there will be no additional regulatory impacts as the instrument is minor and machinery in nature.

Background

11. In the 2015 Federal Budget the Government announced its intention to modernise the 'cents per kilometre method' by replacing three rates based on engine size with one rate set at 66 cents per kilometre to apply for all cars. The *Tax and Superannuation Laws Amendment (2015 Measures*

No. 5) Act 2015 received Royal Assent on 30 November 2015, enacting these changes to the *Income Tax Assessment Act 1997*.

12. A car is defined in section 995-1(1) of the *Income Tax Assessment Act 1997* as a motor vehicle (except a motor cycle or similar vehicle) designed to carry a load of less than one tonne and fewer than nine passengers.

13. Subsection 28-25(4) of the *Income Tax Assessment Act 1997* enables the Commissioner of Taxation to determine rates of cents per kilometre for cars for an income year.

14. Subsection 28-25(5) of the *Income Tax Assessment Act 1997* requires that the Commissioner of Taxation, when determining the rate, have regard to the average operating costs for the cars to be covered by that rate.

15. The cents per kilometre rate is updated in accordance with the annual movement of the Private Motoring Subgroup of the consumer price index (CPI)¹ rounded to the nearest whole cent.

16. To take into account variation within the year, the average index of the four most recent quarters for which data is available is used.

$$Ind_{av} = \frac{Ind_{jun} + Ind_{sep} + Ind_{dec} + Ind_{mar}}{4}$$

17. The indexation factor is the ratio of the average index of the four most recent quarters with that of the previous year.

$$Indexation\ Factor = \frac{Ind_{jun21\ to\ mar22}}{Ind_{jun20\ to\ mar21}}$$

18. Generally, where the indexation factor is less than 1, the rate is not revised downwards but remains the same as the previous year. As the Private Motoring Index fell from June 2020 to June 2021, the rate would have decreased for the 2021–22 income year from 72 cents per kilometre to 69 cents per kilometre. However, the published rate remained at 72 cents per kilometre. To ensure that increases in the rate accurately reflect actual increases in the cost of operating a motor vehicle, the indexation factor is applied to the calculated base rate of 69 cents per kilometre, rather than the published rate of 72 cents per kilometre.

19. After applying the indexation factor to the calculated base rate for the 2021–22 income year of 69 cents per kilometre, the Commissioner has determined that the rate of 78 cents per kilometre will apply for the income year commencing from 1 July 2022. This Instrument sets that rate.

Consultation

20. For this instrument, broad public consultation was undertaken for a period of 4 weeks to 31 March 2022.

21. The draft instrument and draft explanatory statement was published to the ATO Legal database on 3 March 2022. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on ato.gov.au. Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and newsletters to their subscribers and members. This ensures advice of the draft is disseminated widely across the tax professional community.

22. The majority of feedback received was in relation to what data was used to calculate the cents per kilometre rate and the need to have greater transparency about the methodology used in the calculation of the rate. The feedback was taken into consideration and the latest data available has now been used in the calculation of the cents per kilometre rate and this Explanatory Statement provides details about the method used to calculate the rate.

¹ The latest numbers can be obtained from the ABS website for the latest CPI release, by downloading Table 7 and looking for the series Index Numbers; Private motoring; Australia; (series ID A2326656J).

Legislative references

Acts Interpretation Act 1901

Human Rights (Parliamentary Scrutiny) Act 2011

Income Tax Assessment Act 1997

Legislation Act 2003

Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015

Statement of compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Instrument sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as it simply sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.