


***CR 2013/85 - Income tax and fringe benefits tax:
clients of YourCarLog Pty Ltd who use the
YourCarLog.com Logbook Report***

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Class Ruling

Income tax and fringe benefits tax: clients of YourCarLog Pty Ltd who use the YourCarLog.com Logbook Report

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📌 This publication provides you with the following level of protection:

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

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

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

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:
- Subdivision 28-F of the *Income Tax Assessment Act 1997* (ITAA 1997)
 - section 28-125 of the ITAA 1997
 - Subdivision 900-E of the ITAA 1997
 - section 900-195 of the ITAA 1997
 - subsection 10(2) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)
 - section 10A of the FBTAA
 - subsection 123B(1) of the FBTAA, AND
 - subsection 136(1) of the FBTAA.

Class of entities

3. The class of entities to which this Ruling applies is clients of YourCarLog Pty Ltd (YCL) who use the YourCarLog.com 'Logbook Report' (YCL Logbook Report) for the purposes of Subdivision 28-F of the ITAA 1997 or section 10 of the FBTAA.
4. Within this Ruling the class of entities are referred to as YCL clients.

Qualifications

5. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.
6. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 9 to 11 of this Ruling.
7. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:
 - this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
 - this Ruling may be withdrawn or modified.

Date of effect

8. This Ruling applies from 1 April 2013. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

9. The following description of the scheme is based on information provided by the applicant in the application for Class Ruling dated 22 April 2013. The application included various screenshots of the YCL Website and an example of a YCL Logbook Report.

The relevant parts of the application form part of and are to be read with the description.

Note: Certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

10. YCL Pty Ltd has developed the YCL Website to electronically create car log books using information exported from calendar applications (having a .csv or .ics format) together with information manually entered into the system by the user. The information imported into the YCL Website is used to produce the YCL Logbook Report.

11. The main functions of the YCL Website are:

User registration and login

New YCL Website users must register their personal details when first using the website. Users can only access the Website with an active subscription which is password protected.

Car details

To enable the YCL Website to be used for a particular car, the user is required to enter details of the car including car make, model, car year, registration, engine capacity and opening odometer reading.

The user can enter their car expenses incurred in maintaining the car over the reporting period under various categories. For example, this could include petrol, tyres, services, insurance and registration.

Reminder emails

The user will receive an email or SMS from the YCL Website each week to remind them to import their calendar, edit the log and enter the weekly closing odometer reading. This email will contain a warning that if the entries are not made the log book reports may not be compliant with legislative requirements.

Calendar import

The user is required to import their calendar entries into the YCL Website.

Edit log

This enables additional information to be entered in relation to the imported calendar entries. For example, if the user has two appointments on a given day and returns to the office between the appointments, the user will need to enter details of the return to the office. This function also enables the user to specify where the day started and ended and whether the journeys were personal or business journeys.

To maintain the integrity of the generated report the YCL Website limits the changes that can be made to the information imported from the calendar. For example, the user cannot add extra appointments within the YCL Website. However, they do have the ability to delete appointments.

To ensure private journeys are not treated as business journeys, the user is required to select the journeys that are business journeys.

In addition, all addresses used by the YCL Website must first be verified by the user. If the given address cannot be interpreted, the address will be flagged to the user for correction. The user will need to fix this (and perform the address verification) before it will be used by the YCL Website. A report can not be generated until all of the errors are fixed.

Odometer entry

Each week the user is required to manually enter the closing odometer reading from the car.

Generate report

After all required information has been added to the appointments and all addresses have been verified, the user is able to generate either a YCL Logbook Report or a Reimbursement Report. Both reports are generated as a PDF document.

Report generation

The YCL Website uses a geospatial mapping tool provider to calculate the kilometres travelled on each journey. Where alternative routes can be used the number of kilometres travelled on the journey will be the route with the shortest distance as calculated by the geospatial mapping tool provider.

As well as uploading calendar entries, users also manually input the car's closing odometer reading each week and at the end of the period.

Where the car's odometer reading at the end of the period differs from the closing odometer reading calculated by the YCL Website the difference is allocated to personal trips.

YCL Logbook Report

The reports produced by the YCL Website provide details of the car registration, type and engine capacity.

The report lists the following information for each journey:

- the start date imported from the calendar,
- the end date imported from the calendar,
- the purpose of the journey imported from the calendar,
- the opening odometer reading calculated by the YCL Website,

- the closing odometer reading calculated by the YCL Website, and
- the distance travelled as calculated by the YCL Website.

The following details are provided for each week:

- week number,
- start date,
- the car's opening odometer reading entered by the user, and
- the car's closing odometer reading entered by the user.

The following details are provided for a 12 week period;

- the car's opening odometer reading entered by the user,
- the car's closing odometer reading entered by the user,
- total distance travelled as calculated by the YCL Website using the opening and closing odometer readings entered by the user,
- business distance travelled calculated by the YCL Website (= total of calculated kilometres travelled on journeys identified by the user as being business journeys over the reporting period),
- business use percentage calculated by the YCL Website (= calculated business distance/total distance x 100),
- total expenses entered by the user (if applicable), and
- expense claimable amount calculated by the YCL Website (= total expenses x business use percentage) (if applicable).

Ruling

12. The YCL Logbook Report will enable the log book method in Subdivision 28-F of the ITAA 1997 to be used provided :

- there is written evidence of the car expenses which satisfies the requirements of Subdivision 900-E of the ITAA 1997

- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified,
- the information is imported into the YCL Website from the calendar and reviewed at least weekly,
- every journey undertaken in the car is recorded in the user's calendar, and
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

13. Where the YCL Logbook Report does not satisfy the log book requirements of section 28-125 of the ITAA 1997 solely due to incorrect start and end odometer readings being shown for journeys resulting from the car being used to travel to a destination not recorded in the calendar, the Commissioner will exercise the discretion provided by section 900-195 of the ITAA 1997 to enable the log book method to be used provided:

- written evidence of the car expenses which satisfies the requirements of Subdivision 900-E of the ITAA 1997 has been kept,
- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified,
- the information is imported into the YCL website from the calendar and reviewed at least weekly, and
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

14. The YCL Logbook Report will satisfy the requirements of section 10A of the FBTA provided:

- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified,
- the information is imported into the YCL Website from the calendar and reviewed at least weekly,
- every journey undertaken in the car is recorded in the user's calendar, and

- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

15. Where the Commissioner is required to consider the exercise of the discretion in subsection 123B(1) of the FBTAA as a result of the YCL Logbook Report showing incorrect start and/or end odometer readings for journeys, the Commissioner will apply the guidelines for the exercise of that discretion in a similar manner to that used to exercise the Commissioner's discretion in relation to section 900-195 of the ITAA 1997 (as described in paragraphs 46 to 50 of this Ruling).

Commissioner of Taxation

13 November 2013

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

Will the YCL Logbook Report enable the 'log book' method in Subdivision 28-F of the ITAA 1997 to be used to calculate the income tax deduction for car expenses?

16. Division 28 of the ITAA 1997 provides four methods that can be used by an individual or alternatively by a partnership (that includes at least one individual) to calculate the amount of the income tax deduction that can be claimed for car expenses.

17. One of the methods is the 'log book' method which is contained in Subdivision 28-F of the ITAA 1997. To be able to use this method the substantiation requirements set out in section 28-100 of the ITAA 1997 must be met.

18. Section 28-100 of the ITAA 1997 states:

SECTION 28-100 Substantiation

28-100(1) To use this method, you must substantiate the car expenses under Subdivision 900-C.

28-100(2) You must also keep a log book. Subdivision 28-G explains:

- how often you need to keep a log book;
- how to keep a log book.

The log book is relevant to estimating the number of business kilometres the car travelled in the period when you held it during the income year.

28-100(3) You must keep odometer records for the period when you held the car during the income year. Subdivision 28-H tells you about odometer records, which document the total number of kilometres the car travelled in that period.

28-100(4) You must record the following information, in writing, before you lodge your income tax return:

- (a) your estimate of the number of business kilometres; and
- (b) the business use percentage.

However, the Commissioner may allow you to record the information later.

28-100(5) You must retain the log book and the odometer records. Subdivision 28-I has the rules about this.

19. Therefore, the use of the logbook method to calculate the income tax deduction for a car expense requires:

- (a) the car expense to be substantiated in accordance with Subdivision 900-C of the ITAA 1997,

- (b) a log book that satisfies the requirements of Subdivision 28-G of the ITAA 1997,
- (c) odometer records that satisfy the requirements of Subdivision 28-H of the ITAA 1997,
- (d) an estimate to be made of the number of business kilometres and the business use percentage.

Does the YCL Logbook Report substantiate a car expense in accordance with Subdivision 900-C of the ITAA 1997?

20. Section 900-70 of the ITAA 1997 requires the amount of the car expense to be substantiated by written evidence that satisfies the requirements of Subdivision 900-E of the ITAA 1997. This includes a requirement to obtain certain documentation from the supplier. Guidance as to the documentary or other evidence that will normally be accepted as being sufficient evidence for these purposes is provided in Practice Statement Law Administration PS LA 2005/7.¹

21. By itself, the YCL Website will not satisfy this requirement as it does not provide documentation from the supplier. Therefore, YCL clients who wish to use the 'log book' method to calculate their income tax deduction for car expenses will need to separately keep written evidence of the expenses in the same manner as they would if using an alternative record keeping system.

Does the YCL Logbook Report satisfy the log book requirements of Subdivision 28-G of the ITAA 1997?

22. Section 28-110 of the ITAA 1997 summarises the log book requirements as follows:

There are 3 steps you need to follow in keeping a log book:

- identify an income year for which to keep a log book;
- choose a period of at least 12 weeks for the log book to cover;
- record journeys made in the car during the log book period in the course of producing your assessable income.

Will the YCL Logbook Report be kept during the relevant year?

23. Section 28-115 of the ITAA 1997 sets out the years in which a log book must be kept. Section 28-115 of the ITAA 1997 states:

28-115(1) You need to keep a log book for the first income year for which you use this method for the car.

¹ Practice Statement Law Administration PS LA 2005/7 *Substantiation of deductions claimed by individual taxpayers for work and car expenses incurred in the course of earning non-business and non-investment income*

28-115(2) Having kept a log book for one income year, you don't need to keep a new one for the next 4 or more income years unless subsection (3) or (4) requires it. If you haven't kept a new log book for 4 income years in a row, you must keep one for the next income year.

Example:

If you keep a log book in 1997-98, you would need to keep the next one in 2002-2003, unless subsection (3) or (4) requires one sooner.

28-115(3) You must keep a log book for an income year if the Commissioner sends you a notice before the year directing you to keep a log book for the car for that year.

28-115(4) You must keep a log book for an income year if, during that year, you get one or more additional cars for which you want to use the "log book" method for that year.

28-115(5) When you replace one car with another, you might have a period when you hold both the new car and the old car, or a period when you no longer hold the old car but do not yet hold the new car. In both these cases, you are treated for the purposes of subsection (4) as if you held the one car continuously.

28-115(6) You may choose to keep a log book for an income year even if you don't need to; for example, because you want to establish a higher business use percentage.

24. As the YCL Logbook Report is an ongoing continuous record keeping system, the YCL Logbook Report will satisfy subsections 28-115(1) and 28-115(6) of the ITAA 1997.

Will the YCL Logbook Report cover a 12 week period?

25. The requirement contained in section 28-120 of the ITAA 1997 for the log book to be kept for a continuous 12 week period will be met.

Will the YCL Logbook Report contain the details required by section 28-125 of the ITAA 1997?

26. Section 28-125 of the ITAA 1997 sets out the way in which a log book is to be kept. Section 28-125 states:

28-125(1) It is in your interests to record in the log book any journey made in the car during the log book period in the course of producing your assessable income. If a journey is not recorded, the log book will indicate a lower business use percentage than is actually the case.

28-125(2) A journey is recorded by making in the log book an entry specifying:

- (a) the day the journey began and the day it ended;
- (b) the car's odometer readings at the start and end of the journey;

- (c) how many kilometres the car travelled on the journey;
- (d) why the journey was made.

The record must be made at the end of the journey or as soon as possible afterwards.

28-125(3) If 2 or more journeys in a row are made in the car on the same day in the course of producing your assessable income, they can be recorded as a single journey.

28-125(4) The following must be entered in the log book:

- (a) when the log book period begins and ends;
- (b) the car's odometer readings at the start and the end of the period;
- (c) the total number of kilometres that the car travelled during the period;
- (d) the number of kilometres that the car travelled, in the course of producing your assessable income, on journeys recorded in the log book;
- (e) the number of kilometres referred to in paragraph (d), expressed as a percentage of the total number referred to in paragraph (c).

Each of the entries must be made at or as soon as possible after the start or end of the period, as appropriate.

28-125(5) Each entry in the log book must be in English.

27. The YCL Logbook Report provides details of the journeys made while travelling to and from the calendar appointments imported into the YCL Website. Any additional journeys made in the car to destinations not recorded in the calendar will not be shown in the YCL Logbook Report. Although this may mean some journeys are not recorded, subsection 28-125(1) indicates that it is not necessary for every journey during the period to be recorded in a log book.

28. Paragraph 28-125(2)(a) of the ITAA 1997 requires the day the journey began and the day it ended to be entered for each journey. The YCL Logbook Report satisfies this requirement as it uses the date recorded in the calendar to record the day the journey began and the day it ended.

29. Paragraph 28-125(2)(b) of the ITAA 1997 requires the car's odometer readings at the start and end of each journey to be recorded. This requirement will be met for the odometer reading shown for the start of the first journey undertaken during a period as the reading shown will be the car odometer reading manually entered by the user. All other values shown for the start or end of journeys during the period will be a value calculated using the last manually entered car odometer reading and the calculated number of kilometres for the recorded journeys undertaken since the last manual reading.

30. The accuracy of this calculation will depend upon the information recorded in the calendar. The methodology used by the YCL Website to calculate the start and end odometer readings for each journey shown in the YCL Logbook Report assumes that every use of the car is recorded in the calendar. If this does not occur, the odometer readings shown in the YCL Logbook Report for the start and end of the subsequent journeys will not be the same as the car's odometer reading and the requirement in paragraph 28-125(2)(b) of the ITAA 1997 will not be met.

31. For example, the calculated start and end odometer readings shown in the YCL Logbook Report will be different to the actual car odometer readings if:

- the car is used to travel to a destination not recorded in the calendar;
- an appointment in the calendar is cancelled, but the entry is not deleted from the calendar; or
- another person uses the car.

32. Paragraph 28-125(2)(c) of the ITAA 1997 requires the number of kilometres travelled by the car in the course of each business journey to be shown. The YCL Logbook Report shows a distance for each journey. The distance shown is a calculated distance using a geospatial mapping tool provider. Where there are multiple routes, the YCL Website uses the shortest route. Although this calculation does not use the actual car odometer readings to calculate the distance, the integrity of the system will not be affected as the calculated distance will not be more than the actual distance travelled.

33. Paragraph 28-125(2)(d) of the ITAA 1997 requires the reason for the journey to be shown. As the YCL Logbook Report uses the description imported from the calendar, the acceptability of the details shown in the YCL Logbook Report as the reason for the journey will depend upon the information recorded in the calendar.

34. In addition, subsection 28-125(2) of the ITAA 1997 requires the entries to be made at, or as soon as possible after, the end of the journey. The YCL Logbook Report entries are made when the calendar is imported into the YCL website and the user identifies the journeys that are business journeys.

35. Although the YCL Logbook Report entries may not occur until a week after the journey occurs, this will not affect the integrity of the system provided:

- any cancelled appointments are deleted either before the information is imported into the YCL Website, or within the edit log function of the YCL Website prior to generating the YCL Logbook Report; and
- the information is imported from the calendar and reviewed in a timely manner (at least weekly).

36. Subsection 28-125(4) of the ITAA 1997 requires the following details to be entered into the log book:

- the date on which the log book period begins and ends;
- the car's odometer readings at the start and end of the period;
- the total number of kilometres that the car travelled in the period;
- the number of kilometres that the car travelled in the course of producing assessable income on journeys recorded in the log book;
- the number of kilometres that the car travelled in the course of producing assessable income as a percentage of the total number of kilometres travelled during the period.

37. The YCL Logbook Report will satisfy each of these requirements as:

- it shows the start and end dates for the log book;
- the car's odometer readings at the beginning and end of the period are manually entered by the user;
- it calculates the total number of kilometres travelled by the car during the period using the manually entered odometer readings;
- it calculates the total number of kilometres that the car travelled in the course of producing assessable income during the period based on the appointments recorded in the calendar;
- it calculates the number of kilometres travelled in the course of producing assessable income as a percentage of the total number of kilometres travelled.

38. In addition, subsection 28-125 (4) of the ITAA 1997 requires each of the entries to be made at, or as soon as reasonable practical after the start or end of the period (as appropriate).

Subsection 28-125(5) of the ITAA 1997 requires each entry to be in English. The YCL Logbook Report satisfies both of these requirements as the car's odometer readings are entered at the end of the period and the report is produced in English.

39. Therefore, the YCL Logbook Report will only satisfy the requirements of section 28-125 of the ITAA 1997 if:

- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified;
- the information is imported into the YCL Website from the calendar and reviewed at least weekly;

- every journey undertaken in the car is recorded in the user's calendar;
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

Does the YCL Logbook Report satisfy the odometer records requirements of Subdivision 28-H of the ITAA 1997?

40. The YCL ATO Logbook will satisfy the requirements for keeping odometer records set out in section 28-140 of the ITAA 1997 as it records the following in English at, or as soon as possible after the start or end of the period:

- the car's odometer readings at the start and end of the period;
- the car's make, model and registration number;
- the engine capacity expressed in cubic centimetres.

Does the YCL ATO Logbook provide an estimate of the number of business kilometres and the business use percentage?

41. Both of these requirements are met as the YCL Logbook Report calculates:

- the total of the distances calculated as being travelled on the journeys identified as business journeys;
- the total number of kilometres that the car travelled during the relevant period.

By using these figures the YCL Logbook Report is able to calculate the business use percentage which is displayed in the report.

Conclusion on whether the YCL Logbook Report will enable the log book method in Subdivision 28-F of the ITAA 1997 to be used to calculate the income tax deduction for a car

42. As discussed above in paragraph 21 of this Ruling, the YCL Logbook Report will not by itself substantiate a car expense in accordance with Subdivision 900-C of the ITAA 1997.

43. However, the YCL Logbook Report will enable the log book method in Subdivision 28-F of the ITAA 1997 to be used if :

- written evidence of the car expenses which satisfies the requirements of Subdivision 900-E of the ITAA 1997 is kept;

- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified;
- the information is imported into the YCL Website from the calendar and reviewed at least weekly;
- every journey undertaken in the car is recorded in the user's calendar;
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

Will the information provided by the YCL Logbook Report be sufficient to enable the discretion in section 900-195 of the ITAA 1997 to be exercised if the log book requirements in section 28-125 of the ITAA 1997 are not met?

44. In certain situations where the substantiation requirements in section 28-100 of the ITAA 1997 are not met, section 900-195 of the ITAA 1997 provides the Commissioner with a discretion to allow a deduction even though the substantiation requirements have not been met.

45. The situations in which this discretion can be exercised are set out in section 900-195 of the ITAA 1997. Section 900-195 of the ITAA 1997 states:

Not doing something necessary to follow the rules in this Division does not affect your right to a deduction if the nature and quality of the evidence you have to substantiate your claim satisfies the Commissioner:

- (a) that you incurred the expense; and
- (b) that you are entitled to deduct the amount you claim.

46. Guidelines for the exercise of this discretion are provided by Taxation Ruling TR 97/24². In discussing the circumstances in which the evidence available will be considered sufficient to enable the discretion in section 900-195 of the ITAA 1997 to be exercised, paragraphs 40 to 45 of TR 97/24 state:

40. The central issue in deciding whether this discretion ought to be exercised is whether the evidence available:

- (a) satisfactorily quantifies the amount of the expense; and
- (b) establishes the extent to which the taxpayer is entitled to claim a deduction.

² Taxation Ruling TR 97/24 *Income tax: relief from the effects of failing to substantiate*

41. It is not possible to specify the nature and quality of supporting evidence that satisfies the Commissioner in all circumstances. Each case must be considered on its own merits and a common sense approach applied.

42. When deciding whether to exercise this discretion, the Commissioner is not limited to considering documentary evidence. A wide variety of factual information can be relevant. For example, in deciding whether the Commissioner is satisfied that car expenses have been incurred and are deductible to the extent claimed, a relevant piece of evidence might be that a particular motor car is used in operating a driving school rather than merely occasionally in producing assessable income.

43. A bona fide attempt to comply with the substantiation requirements is likely to assist taxpayers in relation to the nature and quality of the evidence they hold.

44. If a taxpayer has made little or no attempt to comply with the substantiation requirements, the nature and quality of supporting evidence available is likely to be poor. It is the clear intention of the substantiation provisions that deductions are generally not allowed where there is no supporting documentation or factual material evidencing the expense.

45. In cases where there has been a failure to comply with the substantiation requirements, the taxpayer may face practical difficulties in satisfying the Commissioner that the claimed amount of an expense has been incurred and is deductible. Such cases frequently involve estimates by the taxpayer of expenses incurred. An unsupported statement by a taxpayer as to the amount of an expense incurred does not, of itself, constitute evidence of a nature and quality to satisfy the Commissioner that the discretion should be exercised.

47. In applying paragraph 40 of TR 97/24, the issue to be considered is whether the documentation that has been kept satisfactorily:

- quantifies the number of business kilometres and the total number of kilometres that were travelled during the log book period; and
- establishes that the journeys recorded as business journeys were business journeys.

48. Provided the purpose of each journey is properly described, the YCL Logbook Report will satisfy both of these requirements. This is because the information imported from the calendar and entered at the edit stage will enable the YCL Website to calculate the number of business kilometres using a geospatial mapping tool provider and the total number of kilometres travelled during the relevant period using the manually entered odometer readings.

49. The fact that the stated opening and closing odometer readings for each business journey may not be in accordance with the actual car odometer readings will not impact on the overall integrity of the calculation of the business use percentage as the YCL Website does not use these readings to calculate the number of business kilometres travelled.

Conclusion on whether the information provided by the YCL Logbook Report will enable the discretion in section 900-195 of the ITAA 1997 to be exercised if the log book requirements in section 28-125 of the ITAA 1997 are not met

50. Therefore, the discretion in section 900-195 of the ITAA 1997 will be exercised to enable the log book method to be used where the following conditions are satisfied:

- written evidence of the car expenses which satisfies the requirements of Subdivision 900-E of the ITAA 1997 has been kept;
- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified;
- the information is imported into the YCL website from the calendar and reviewed at least weekly;
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

Will the YCL Logbook Report satisfy the requirements of section 10A of the FBTA?

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

52. Where this election is made, subsection 10(2) of the FBTA provides that the taxable value of the car fringe benefit will be the amount calculated in accordance with the formula:

$$(C \times (100\% - BP)) - R$$

where:

C is the operating cost of the car during the holding period;

BP is either:

- (i) nil if, under sections 10A or 10B, the employer is not entitled to a reduction in the operating cost of the car on account of business journeys undertaken in the car during the holding period; or

- (ii) the business use percentage applicable to the car for the holding period; and

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

53. Therefore, an employer intending to claim a reduction in the operating costs of a car, on account of the business journeys undertaken during the holding period, must meet the requirements of section 10A of the FBTA (if the year is a log book year of tax), or section 10B of the FBTA (if the year is not a log book year of tax).

54. Subsection 162G(1) of the FBTA which sets out various circumstances in which a particular year will be a log book year of tax for a car fringe benefit states:

162G(1) [Conditions]

For the purposes of the application of section 10 in relation to a car fringe benefit in relation to an employer in relation to a particular car while it was held by a particular person (in this subsection called the 'provider') during a particular period (in this subsection called the 'holding period') in a year of tax (in this subsection called the 'current year of tax'), the current year of tax is a log book year of tax of the employer in relation to the car if, and only if:

- (a) none of the previous 4 years was a log book year of tax of the employer in relation to the car;

Note: This paragraph will apply if it is the first year that the employer uses the cost basis method.

- (b) the employer elects that the current year of tax be treated as a log book year of tax of the employer in relation to the car; or...
- (h) the Commissioner causes a notice in writing to be served on the employer before the commencement of the current year of tax requiring the employer to treat the current year of tax as a log book year of tax of the employer in relation to the car.

55. As the YCL Logbook Report is a continuous record, each year the YCL Website is used will be a log book year of tax under either:

- paragraph 162G(1)(a) of the FBTA (where none of the previous four years was a log book year of tax for the particular car); or
- paragraph 162G(1)(b) of the FBTA as the employer in electing to use the YCL Website makes an election to treat the year as a log book year of tax.

56. Therefore, in determining whether the employer is able to claim a reduction in the operating costs of the car on account of the business journeys undertaken during the holding period, it is only necessary to consider whether the requirements of section 10A of the FBTA are met.

57. Section 10A of the FBTA requires that in a log book year:
- (a) log book records are maintained for an applicable log book period,
 - (b) odometer records are maintained for an applicable log book period,
 - (c) odometer records are maintained for the period of the year in which the car was held,
 - (d) the employer estimates the number of business kilometres travelled during the period of the year in which the car was held, and
 - (e) the employer specifies the business use percentage.

Does the YCL Logbook Report provide log book records for an applicable log book period?

58. The applicable log book period is defined in subsection 162H(1) of the FBTA to be a period that is the lesser of 12 weeks, or the period of the year for which the car was held. As the YCL Logbook Report provides a continuous record of the journeys undertaken, it will be kept for an applicable log book period.

59. Subsection 136(1) of the FBTA defines 'log book records' as follows:

log book records, in relation to a car held by a person (in this definition called the *holder*), in relation to a period, means a daily log book or similar document in which, in respect of each business journey:

- (a) that is undertaken in the car during the period; and
- (b) that the holder, or a person acting on behalf of the holder, chooses to record in the document for the purpose of demonstrating the pattern of use of the car during the period;

an entry setting out particulars of:

- (c) the date on which the journey began and the date on which it ended; and
- (d) the respective odometer readings of the car at the beginning and end of the journey; and
- (e) the number of kilometres travelled by the car in the course of the journey; and
- (f) the purpose or purposes of the journey;
- (g) (Omitted by No 145 of 1995)
- (h) (Omitted by No 145 of 1995)
- (j) (Omitted by No 145 of 1995)

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

60. As discussed at paragraph 27 of this Ruling, the YCL Logbook Report provides details of the journeys made while travelling to and from the calendar appointments imported into the YCL Website. Although any additional journeys made in the car to destinations not recorded in the calendar will not be shown in the YCL Logbook report, the definition of 'log book records' only requires details to be recorded for business journeys. Therefore, it is not necessary for every journey to be recorded in a log book record.

61. Paragraph (c) of the definition of 'log book records' requires each entry to detail the dates on which the business journeys began and ended. As discussed at paragraph 28 of this Ruling, this requirement is met.

62. Paragraph (d) of the definition of 'log book records' requires the respective odometer readings of the car at the beginning and at the end of the journey to be entered into the relevant records. As discussed above at paragraphs 29 to 31 of this Ruling, the start and end odometer readings recorded in the YCL Logbook Report will only satisfy this requirement if the car is only used by one employee who records every destination to which the car travels in their calendar and deletes any cancelled appointments from their calendar before importing the information into the YCL Website.

63. Paragraph (e) of the definition of 'log book records' requires the number of kilometres travelled by the car in the course of each business journey to be shown. As previously discussed at paragraph 32 of this Ruling, this requirement is met.

64. Paragraph (f) of the definition of log book records requires the purpose or purposes of the journey to be recorded. As discussed at paragraph 33 of this Ruling, the acceptability of the details shown in the YCL Logbook Report for the purpose of the journey will depend upon the information recorded in the calendar.

65. In addition, the definition of log book records requires each of the entries to be made in the English language at, or as soon as reasonable practical after, the end of the journey. As discussed at paragraph 38, each entry will be in English. Further, as discussed at paragraphs 34 and 35 of this Ruling, the requirement for the entries to be made as soon as reasonably practical after, the end of the journey will be met if:

- any cancelled appointments are deleted either before the information is imported into the YCL Website, or within the edit log function of the YCL Website prior to generating the YCL Logbook Report; and
- the information is imported from the calendar and reviewed in a timely manner (at least weekly).

66. Therefore, the YCL Logbook Report will satisfy the definition of 'log book records' in subsection 136(1) of the FBTAA if

- the calendar entries are sufficiently descriptive of the business journeys to enable the journeys to be classified as business journeys;
- the information is imported from the calendar and reviewed at least weekly;
- every journey undertaken in the car is recorded in the user's calendar;
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

Does the YCL Logbook Report provide odometer records for an applicable log book period?

67. The definition of 'odometer records' in subsection 136(1) of the FBTAA requires details of the odometer reading of the car at the beginning and end of the period to be recorded in English at, or as soon as reasonably practicable after the time to which the odometer readings relate.

68. These requirements will be met for the log book period as the user in the first year is required to enter the opening odometer reading in English when the system is first used and then regularly enters subsequent readings (usually at the end of each week).

Does the YCL Logbook Report provide odometer records for the period of the year in which the car is held?

69. For the reasons discussed above at paragraphs 67 and 68 of this Ruling, this requirement is met.

Does the YCL Logbook Report provide an estimate of the business kilometres travelled during the period of the year in which the car was held?

70. As discussed above at paragraph 41 of this Ruling, the YCL Website calculates the total of the distances travelled on the journeys identified as being a business journey. This total is shown in the YCL Logbook Report.

Does the YCL Logbook Report specify a percentage as the business use percentage?

71. Subsection 136(1) defines 'business use percentage' to mean the percentage worked out using the formula:

$$\frac{\text{Number of business kilometres travelled by the car during the holding period}}{\text{Total number of kilometres travelled by the car during the holding period}} \times 100\%$$

72. The YCL Logbook Report satisfies this requirement as it is able to calculate the total number of kilometres travelled by the car during the holding period from the odometer readings input at the end of each week. By using this figure and the calculated total business kilometres, the YCL Website is able to calculate the business use percentage which is displayed in the YCL Logbook Report.

Conclusion on whether the YCL Logbook Report meets the relevant requirements of section 10A of the FBTAA

73. As discussed above in paragraphs 58 to 73 of this Ruling, the YCL Logbook Report will satisfy the requirements of section 10A of the FBTAA if:

- the calendar entries are sufficiently descriptive of the business journeys to enable the journeys to be classified as business journeys;
- the information is imported from the calendar and reviewed at least weekly;
- every journey undertaken in the car is recorded in the user's calendar;
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

74. Where this does not occur, it is necessary to consider the exercise of the discretion in subsection 123B(1) of the FBTAA.

Will the information provided by the YCL Logbook Report be sufficient to enable the discretion in subsection 123B(1) of the FBTA to be exercised?

75. In certain situations where the substantiation requirements in section 10A of the FBTA are not met, subsection 123B(1) of the FBTA provides the Commissioner with a discretion not to apply the substantiation requirements. Subsection 123B(1) of the FBTA states:

The substantiation rules do not apply in relation to a benefit if the nature and quality of evidence that a person has satisfies the Commissioner that the taxable value of the benefit is not greater than the amount specified in the taxpayer's return for the FBT year as the taxable value of that benefit.

76. Section 123B of the FBTA was introduced by *Taxation Laws Amendment Act (No 4) 1992*. In providing background to the legislation the Explanatory Memorandum stated:

13.2 The proposed amendment will provide that the Commissioner may give relief after a review of a taxpayers affairs, or after review or reconsideration of an assessment. The relief will be provided in circumstances where the requirements would otherwise operate to either disallow a reduction in taxable value or disallow the exempting of a benefit. The relief is to be available where the Commissioner of Taxation, having regard to certain matters, is satisfied that the benefit has been provided and it would be unreasonable for the substantiation requirements to apply.

...

13.4 Substantiation provisions also appear in the income tax legislation. Those provisions require a high degree of detail, the harshness of which was highlighted in the so called 'Minister's Case' (*Case W124 89 ATC 975*), where deductions were disallowed because of minor defects in the supporting documents. That case resulted in section 82KZAA being inserted into the *Income Tax Assessment Act 1936*. The new section was effective from 8 January 1991 and gives the Commissioner of Taxation a discretion to grant relief to taxpayers from the strict substantiation requirements in certain special circumstances.

13.5 To ensure consistent treatment of taxpayers, the proposed amendment will allow the Commissioner a similar discretion when considering the substantiation requirements of the FBTA.

77. Section 123B of the FBTA was subsequently amended by *Taxation Laws Amendment (FBT Cost of Compliance) Act 1995* following the amendment to the discretion that was previously contained in section 82KZAA of the ITAA 1936 by *Tax Law Improvement (Substantiation) Act 1995*. The amended income tax section was subsequently incorporated as section 900-195 of the ITAA 1997.

78. The Explanatory Memorandum to Taxation Laws Amendment (FBT Cost of Compliance) Bill 1995 stated:

9.40 Under the existing law, the substantiation rules do not apply if the Commissioner is satisfied that a benefit has been provided and it would be unreasonable for the substantiation rules to apply. The Commissioner must consider the nature and quality of the employer's evidence ...

9.41 Section 123B will be amended so that the Commissioner will need to consider only the nature and quality of the employer's evidence.

79. The requirement in subsection 123B(1) of the FBTA for the Commissioner to consider the nature and quality of the employer's evidence is similar to the requirement in section 900-195 of the ITAA 1997.

80. The nature of quality of the evidence provided by the YCL Logbook Report in the context of section 900-195 of the ITAA 1997 is discussed at paragraphs 46 to 50 of this Ruling. At paragraph 50, the conclusion was reached that the discretion in section 900-195 of the ITAA 1997 will be exercised in relation to Subdivision 28-F of the ITAA 1997 where the following conditions are satisfied:

- written evidence of the car expenses which satisfies the requirements of Subdivision 900-E of the ITAA 1997 has been kept;
- the calendar entries imported into the YCL Website are sufficiently descriptive to enable the business journeys to be properly classified;
- the information is imported into the YCL website from the calendar and reviewed at least weekly;
- any cancelled appointments in the user's calendar are either deleted from the calendar before the calendar entries are imported into the YCL Website or are deleted within the edit log function of the YCL Website prior to generating the YCL Logbook Report.

81. Given, the similarity between the discretions in section 900-195 of the ITAA 1997 and subsection 123B(1), these factors (with the exception of the first dot point which concerns the amount of the expense rather than the business use percentage) will also be relevant when considering the discretion in subsection 123B(1) of the FBTA.

82. However, the exercise of the discretion for the purposes of the FBTA is limited by subsection 123B(3). Subsection 123B(3) of the FBTA states:

The Commissioner may only make a decision under subsection (1):

- (a) in the course of reviewing on the Commissioner's own motion the affairs of the employer; or

- (b) in considering an objection against the assessment of the employer of the year of tax; or
- (c) in considering whether to make an amendment of the assessment of the employer of the year of tax in response to a request made by the employer before the commencement of this section.

83. These events involve the Commissioner considering the possible amendment of a fringe benefits tax assessment while undertaking a review of the affairs of the employer, or in considering an objection against an assessment lodged by the employer. Until this occurs, the Commissioner is not able to exercise the discretion in subsection 123B(1) of the FBTA.

Conclusion on whether the information provided by the YCL Logbook Report will enable the discretion in subsection 123B(1) of the FBTA to be exercised

84. Therefore, the discretion in subsection 123B(1) of the FBTA cannot be exercised in a Class Ruling. It can only be considered in the course of either reviewing the affairs of an employer who is a YCL client, or in considering an objection lodged by the employer who is a YCL client.

85. Where one of these events occurs, the Commissioner may exercise the discretion in subsection 123B(1) of the FBTA to not apply the substantiation requirements in section 10A of the FBTA. In considering the exercise of that discretion in relation to a YCL Logbook Report showing incorrect start and/or end odometer readings for journeys, the Commissioner will apply the guidelines for the exercise of that discretion in a similar manner to that used to exercise the Commissioner's discretion in relation to section 900-195 of the ITAA 1997 (as described in paragraphs 46 to 50 of this Ruling).

Appendix 2 – Detailed contents list

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 97/24; TR 2006/10

Subject references:

- car fringe benefits
- commissioners discretion
- log book records
- odometer records

Legislative references:

- ITAA 1936 82KZAA
- ITAA 1997 Div 28
- ITAA 1997 Subdiv 28-F
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- ITAA 1997 28-100(1)
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