




MT 2041 - Fringe benefits tax: car benefits: employer retention of car records

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 [Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

 This document has changed over time. This is a consolidated version of the ruling which was published on *28 July 1994*

TAXATION RULING NO. MT 2041

FRINGE BENEFITS TAX: CAR BENEFITS:
EMPLOYER RETENTION OF CAR RECORDS

F.O.I. EMBARGO: May be released

REF N.O. REF: 88/6332-6 DATE OF EFFECT: Immediate

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1011116	FRINGE BENEFITS TAX CAR BENEFITS	FRINGE BENEFITS TAX ASSESSMENT ACT; SECTIONS 123A, 136 162D.

OTHER RULINGS ON TOPIC NIL

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PREAMBLE Under section 7 of the Fringe Benefits Tax Assessment Act 1986 (the Act), a car fringe benefit arises when a car owned or leased by an employer is made available for any private use by an employee.

2. The employer may calculate the fringe benefits tax (FBT) payable on the provision of the car fringe benefit under either the statutory formula method (section 9 of the Act) or the actual operating cost method (section 10 of the Act).

3. Under the actual operating cost method the amount taxed is the proportion of the total cost of operating the car during the year that is attributable to the number of private kilometres travelled in the car. Under this method the employer is required to provide the Commissioner of Taxation with information, in respect of each car, concerning:

- . in a year in which a log book is kept
 - the business percentage;
 - the period during which log book and odometer records were maintained; and
 - the make, model and registration number of any replacement car and of the car it replaced during the year, and the date of replacement.
- . in a year in which a log book is not kept
 - the business percentage; and
 - the make, model and registration number of any replacement car and of the car it replaced during the year, and the date of replacement

4. Previously, an employer was required to specify this information in his or her FBT return. However, the Act was amended by the Taxation Laws Amendment Act 1989 (the Amending Act) to provide that employers were no longer required to specify, in FBT returns, matters in relation to car fringe benefits. Instead, it will suffice if those matters are specified in "car records" retained by the employer. The amendment applies from 1 July 1986. However, those employers who have already specified relevant matters in their returns will not be disadvantaged.

5. "Car records", a term inserted by the Amending Act, are defined in Section 136 of the Act as those records maintained by an employer for the purposes of those provisions of the Act that use the term. Essentially, the provisions referred to are those that require an employer to record the information referred to in paragraph 3 of this ruling.

6. Subsection 19(8) of the Amending Act allows employers one month from the day of Royal Assent to that Act (Act No. 11 of 1989 assented to on 16 March 1989) to specify or nominate a particular in car records of the FBT year of tax that ended on 31 March 1987 or 31 March 1988. Such particulars will be treated as if they were specified or nominated in the FBT return before the return was due for lodgment. This gives employers time to take advantage of the opportunity to specify relevant matters in car records relating to a past FBT year or years.

7. New section 162D of the Act, inserted by the Amending Act, will benefit fringe benefit tax employers who, by oversight, fail to comply with certain provisions of the FBT law that are required to be complied with for the cost basis method to apply. The section allows the Commissioner to treat a relevant period, nomination, particular or percentage specified by the employer as if it had been specified in the employer's car records.

RULING 8. For the FBT year of tax commencing on 1 April 1989 and for subsequent FBT years of tax, car records must be kept in a form approved by the Commissioner of Taxation. The purpose of this ruling is to outline the Commissioner's requirements. The Commissioner will not be publishing an official Australian Taxation Office car records form; employers will be entitled to keep records of their own design provided that the necessary information, as explained and illustrated in this ruling, is clearly set out.

9. This ruling consists of two schedules and a number of notes (see attachment) to assist in the completion of the schedules. Schedule A is to be completed in a log book year. Schedule B is to be completed in a non-log book year.

COMMISSIONER OF TAXATION
30 March 1989

APPENDIX

ATTACHMENT

CAR FRINGE BENEFITS - OPERATING COST METHOD

INFORMATION SHEET AND INSTRUCTIONS FOR COMPLETING CAR SCHEDULE A
AND CAR SCHEDULE B

NOTES

1. The fringe benefits tax law has been amended to enable the taxable value of a car fringe benefit under the actual operating cost method to be reduced by a business percentage calculated from log book records kept for a continuous period of 12 weeks. Provided the actual percentage of business use does not vary substantially (i.e., by more than 10 percentage points) from that established by reference to the log book records, that established percentage continues to be the basis for calculating the taxable value of the fringe benefits relating to the car or a car that replaces it, without the keeping of further log books.
2. Under the operating cost method, the taxable value of a car fringe benefit is calculated by reducing the total operating cost of the car for the year by the business percentage, and deducting from that reduced value any operating costs paid by the employee (e.g., for petrol and oil) or any amount paid for the use of the car.

Example:

- . total operating costs of a car for the year are \$10,000;
- . the business percentage is 65%; and
- . an employee who uses the car throughout the year pays the employer \$2,000 for the use of the car.

The taxable value in this example would be $(\$10,000 \times 35\%) - \$2,000$, i.e., \$1,500.

(A detailed explanation of the operating cost method of calculating the taxable value of car fringe benefits is contained in the booklet "Fringe Benefits Tax - A Guide for Employers".)

3. If you are including in your FBT return any car fringe benefits calculated under the actual operating costs method, you will need to complete Car Schedule A or Car Schedule B.
4. You must include in Car Schedule A details about cars for which a particular FBT year was a log book year, and include in Car Schedule B details about cars for which the year was not a log book year. It is important, therefore, to know whether or not the year was a log book year for each car.

WHEN IS A YEAR A LOG BOOK YEAR?

5. The year will be a log book year for a car if:
 - . the operating cost method was not used for the car last year (e.g., the car is new, the statutory formula was used last year, or the car was not used to provide fringe benefits last year); or

- . you wish to treat the year as a log book year for the car (e.g., to increase the business percentage)

If you kept log books in, for example, 1987/88, the 1988/89 FBT year will not generally be a log book year - see Note 17.)

WHAT HAPPENS IF A YEAR IS A LOG BOOK YEAR?

6. If the FBT year is a log book year for the car, you are not entitled to reduce the taxable value of the car fringe benefit by the business percentage unless log book records and odometer records for the car were maintained for a continuous period of not less than 12 weeks during the year. If the car was used to provide fringe benefits for less than 12 weeks during the year, log book records and odometer records would need to have been kept for the whole of that period (except in the circumstances explained in Note 8 below). You must specify in Car Schedule A the period during which the log book records and odometer records were maintained.
7. You must also specify in Car Schedule A the nominated business percentage for the car, i.e., an estimate by you of the percentage represented by the number of business kilometres divided by the number of total kilometres for the year or, if the car was not used to provide fringe benefits for the whole year, for the period when it was so used. This percentage must not exceed the business percentage established during the 12 weeks log book period.
8. It is not necessary to have kept log book records and odometer records if the car was first used to provide fringe benefits in the last 12 weeks of a particular FBT year or if the Commissioner has waived the requirement to do so, even in a log book year. In that case, though, you must still specify in Car Schedule A the nominated business percentage, as explained in Note 7 above, and the following FBT year would be a log book year for the car.

WHAT ARE LOG BOOK RECORDS AND ODOMETER RECORDS?

9. "Log book records" are a daily log book or similar document which includes, for business trips taken in the period for which a log book is kept, the following entries:
 - . the date the trip began and ended;
 - . odometer readings at the start and end of the trip;
 - . the number of kilometres travelled;
 - . the purpose of the journey;
 - . the name of the driver;
 - . the date of entry; and
 - . the name of the person making the entry; and
10. The log book information must be in English and entries must be made at the time of the trip or as soon as possible

afterwards. They must be signed when they are made.

11. "Odometer records" are a record of the car's total kilometres for the year or, if the car was not used to provide fringe benefits for the whole year, for the period when it was so used. In a log book year, however, odometer records need only be kept for the period the log book records were kept. To make odometer records, it is necessary to make a signed and dated record of:

- . the odometer reading at the beginning of the period for which the record is being kept or at the time of the first business trip in the period; and
- . the odometer reading at the end of the period for which the record is being kept or at the end of the last business trip in the period.

12. Like the log book records, the information must be in English and the entries made and signed at the time of the readings or as soon as possible afterwards.
13. If the car is replaced during the year, the odometer records must also include an entry showing odometer readings of the replaced car and the replacement car as at the nominated replacement dates. (See Note 16 regarding replacement cars).
14. If odometer records were not been kept for the 1987/88 FBT year, you may make a signed record that sets out reasonable estimates of the required readings as at the appropriate dates and times. If you declare in the record that, to the best of your knowledge and belief the estimates are reasonable, the record will be treated as the relevant odometer records.

WHAT HAPPENS IF I REPLACE A CAR IN A LOG BOOK YEAR?

15. If you have replaced a car during the year, you may treat the replacement as though it were the replaced car for the purposes of the car log book rules. That is, if log book records were kept during the year for the replaced car to establish a business percentage, you may transfer that percentage to the new car if it remains appropriate to that new car. Alternatively, if you had not kept log book records before the changeover, you may establish a business percentage for the new car by log books and apply that percentage, if appropriate, to both the new car and the replaced car.
16. To transfer the business percentage in this way, you must specify in Car Schedule A the make, model and registration number of both cars and the date on which the replacement was made. You should also make sure that odometer records kept during the year while the log book records were being kept show details of the odometer readings of both the replaced car and the new car at the specified replacement date.

IS A PARTICULAR FBT YEAR A NON-LOG BOOK YEAR?

17. An FBT year will be a non-log book year for the car if it is not a log book year as explained in Note 5 above. For

example, if you properly kept log book records for the car for a minimum continuous period of 12 weeks in 1986/87 and calculated the taxable value of the car fringe benefit that year from a business percentage based on those records, 1987/88 would not be a log book year for the car.

WHAT HAPPENS IN A NON-LOG BOOK YEAR?

18. If the year is not a log book year for the car, you are not entitled to reduce the taxable value of the car fringe benefit by the business percentage unless odometer records for the car (as explained in Notes 11 to 14 above) have been maintained and you specify the business percentage in Car Schedule B.
19. The percentage you should specify is the business percentage on which you based the calculation of the taxable value of the car fringe benefit in the log book year, unless there has been a reduction of more than 10 percentage points in the business use of the car from that year. If there has been a reduction of more than 10 percentage points, specify in Car Schedule B the nominated business percentage for the car which, as explained in Note 7 above, is your estimate of the actual business percentage.
20. You must also specify in car Schedule B your estimate of the actual business percentage (the estimate is called 'the nominated business percentage') if the car is one with a business usage at the rate of 5000 or fewer kilometres per annum and there has been any reduction in the percentage of business use from the percentage on which the preceding FBT year's taxable value was based. There is no 10 per cent tolerance for such low business kilometre cars.

WHAT HAPPENS IF I REPLACE A CAR IN A NON-LOG BOOK YEAR?

21. If you have replaced a car during the year, you may treat the replacement as though it were the replaced car for the purposes of the car log book rules. That is, if you had established a business percentage for the existing car by keeping log book records for a minimum continuous period of 12 weeks in an FBT year, you may transfer that percentage to the new car if it remains appropriate to the new car.
22. To transfer the business percentage in this way, you must specify in Car Schedule B the make, model and registration number of both cars and the date on which the replacement was made. You should also make sure that odometer records kept during the year for the cars (as explained in Notes 11 to 14 above) show details of the odometer readings of both the replaced car and the new car at the specified replacement date.