



# ***CR 2013/66 - Fringe benefits tax: employers who use the Navman Wireless Australia telematics system for car log book records and for odometer records***

 This cover sheet is provided for information only. It does not form part of *CR 2013/66 - Fringe benefits tax: employers who use the Navman Wireless Australia telematics system for car log book records and for odometer records*

 This document has changed over time. This is a consolidated version of the ruling which was published on *7 August 2013*



## Class Ruling

Fringe benefits tax: employers who use the Navman Wireless Australia telematics system for car log book records and for odometer records

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### **❶ 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:

- section 10A of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA);
- section 10B of the FBTAA; and
- subsection 136(1) of the FBTAA

All references in this Ruling are to the FBTAA unless otherwise stated.

## Class of entities

3. The class of entities to which this Ruling applies is those employers who use the Navman Wireless Australia Pty Ltd (Navman Wireless) telematics system (Navman Wireless system) for car log book record and odometer record keeping requirements.

## Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. 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 8 to 20 of this Ruling.

6. 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

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7. 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

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8. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them form part of and are to be read with the description. The relevant documents or parts of documents incorporated into this description of the scheme are:

- the application for Class Ruling dated 17 December 2012; and,
- information provided by letter and email on 15 February 2013 and 14 March 2013 respectively.

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

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9. Navman Wireless has developed the Navman Wireless system as a means of recording car log book entries.

10. The Navman Wireless system is a non-integrated fleet vehicle system that records for each car journey, the times the journey starts and finishes, the destination, the kilometres travelled and allows the driver to record the journey as being for either business or private purposes.

11. At the installation of the Navman Wireless system the user is prompted to enter the car's current odometer reading.

12. At the start of a journey the following information is collected:

- Location - GPS satellite information is captured and returned to the In Vehicle Unit (IVU) when the ignition is turned on. This includes longitude and latitude;
- Time/Date - Time and date are collected from the GPS satellite and returned to the IVU at the time the ignition is turned on;
- Employee ID - Where requested, a Radio Frequency Identification (RFID) unit will be installed in the car and will recognise the identification of the employee using a unique number of each individual RFID card and driver;
- Type of Journey - Business or private use details are collected via the driver pressing a button on the Mobile Data Terminal;
- Purpose- Following a declaration of a business journey, the Mobile Data Terminal will display a second screen requesting the purpose for the journey to be selected from the pre-determined list. The standard in-car system will allow for the selection from up to 10 different types of business journey. The 10 selections that are pre-programmed into the Navman Wireless telematics system will be determined by the needs of the particular employer.
- Audio reminder - A buzzing sound will be heard for a period of time after the ignition is turned on and will stop when private or both business and a related purpose are selected. If these details are not selected the buzzing sound will automatically timeout.

13. At the end of each car journey the following information is collected.

- Location - GPS satellite information is captured and returned to the IVU when the ignition is turned off. This includes longitude and latitude;

- Time/Date - Time and date are collected from the GPS satellite and returned to the IVU at the time the ignition is turned off.

14. The odometer reading recorded in the Navman Wireless system may be manually updated should it be necessary.

15. All information on any journeys undertaken by a car will be sent via the mobile network to be stored on a central server. Should the mobile network not be available, all data is stored on the IVU until such time as the network becomes available again. All information sent via the mobile network will be encrypted to ensure secure transmission and will be backed up to ensure safety of the information in the event of a disaster. All Administrator Level Users will be given an individual User Name and a Password for access to the web portal for the software component.

16. Each IVU has an inbuilt battery unit that will continue to record and provide a signal in the event of vehicle battery failure.

17. When the purpose of the car journey does not fit within the 10 predetermined selections the driver can elect not to select a purpose for that particular journey. However, the driver will be able to subsequently log into the Navman Wireless system software to manually update the purpose of the journey. Should any record details be incomplete the administrator will be notified of these omissions by an exception report and will be able to take the appropriate action to correct the record.

18. An employer will be able to use the Navman Wireless system to produce, in English, a Navman system 'FBT Trip Report' for any selected period for each car that has the system fitted.

19. The Navman Wireless system 'FBT Trip Report' will provide the following information for each journey undertaken in the selected period:

- the trip type (private or business);
- the status (purpose) of the trip;
- the driver's name (where the identification unit is installed);
- the start time and date;
- the location from which the journey commenced;
- the starting odometer reading;
- the time and date on which the journey was completed;
- the location at which the journey was completed;
- the ending odometer reading; and
- total distance travelled during the trip (in kilometres).

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20. The Navman Wireless system 'FBT Trip Report' will also provide details of:

- the total number of kilometres travelled during the selected period;
- the number of private kilometres travelled during the selected period;
- the number of business kilometres travelled during the selected period; and
- the calculated business use percentage for the selected period.

## Ruling

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21. The Navman Wireless system 'FBT Trip Report' is a document that satisfies the definition of 'log book records' in subsection 136(1).

22. The Navman Wireless system 'FBT Trip Report' is a document that satisfies the definition of 'odometer records' in subsection 136(1).

23. An employer using the Navman Wireless system 'FBT Trip Report' is entitled to claim a reduction of operating costs of a car on account of business journeys, in a log book year of tax, as the Navman Wireless system 'FBT Trip Report' meets the requirements of section 10A.

24. An employer using the Navman Wireless system 'FBT Trip Report' is entitled to claim a reduction of operating costs of a car on account of business journeys, in a non-log book year of tax, as the Navman Wireless system 'FBT Trip Report' meets the requirements of section 10B.

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**Commissioner of Taxation**7 August 2013

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## Appendix 1 – Explanation

- *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.*

### What is the operating cost method for the purposes of the FBTAA?

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

26. The taxable value of the car fringe benefit using the cost basis method (operating cost method) is calculated according to the following formula in subsection 10(2):

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

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.

27. Therefore, employers intending to claim a reduction in the operating cost of a car, on account of business journeys undertaken during the holding period, must meet the requirements of either section 10A or section 10B, as applicable.

### Does the Navman Wireless system 'FBT Trip Report' meet the relevant requirements of section 10A?

28. Section 10A states:

#### **SECTION 10A**

#### **10A NO REDUCTION OF OPERATING COST IN A LOG BOOK YEAR OF TAX UNLESS LOG BOOK RECORDS AND ODOMETER RECORDS ARE MAINTAINED**

Where one or more car fringe benefits in relation to an employer in relation to a year of tax relate to a car while it was held by a particular person (in this section called the '**provider**') during a particular period (in this section called the '**holding period**') in a year of tax that is a log book year of tax of the employer in relation to the car, the employer is entitled to a reduction in the operating cost of the car on account of business journeys undertaken in the car during the holding period if, and only if:

- (a) log book records and odometer records are maintained by or on behalf of the provider for an applicable log book period in relation to the car; and
- (b) odometer records are maintained by or on behalf of the provider for the holding period; and
- (c) ...
- (d) the employer specifies the employer's estimate of the number of business kilometres travelled by the car during the holding period; and
- (e) the employer specifies a percentage as the business use percentage applicable to the car in relation to the provider for the holding period.

29. Section 162G sets out various circumstances under which a particular year can be treated as a 'log book year of tax'. It is accepted for present purposes that all employers using the Navman Wireless system will make an election under paragraph 162G(1)(b) to treat a relevant current year of tax as a 'log book year of tax'.

30. Nevertheless, it is essential to meet the requirements of section 10A that both 'log book records' and 'odometer records' are maintained.

**Does the Navman Wireless system 'FBT Trip Report' satisfy the requirements of the definition of 'log book records'?**

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

***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)
- (i) (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.

32. The definition of 'log book records', in subsection 136(1), requires that the relevant record be 'a daily log book or similar document' and also the relevant entries are 'made in the English language at, or as soon as reasonable practical after, the end of the journey'.

33. The business use or private use details for the journey are input by the driver onto the Mobile Data Terminal at the start of each car journey. The Navman Wireless system 'FBT Trip Report' provides its information in English.

34. It is considered that the trip report provided by the Navman Wireless system meets the necessary requirement of being a 'daily log book or similar document' and also meets the necessary requirement of having the relevant entries 'made in the English language at, or as soon as practical after, the end of the journey'.

35. Although it is expected that the relevant entries will be made the same day the car journey was undertaken, it is accepted that in situations where it is not practical to generate a Navman Wireless system 'FBT Trip Report' on a daily basis, the period of making such entries may be extended. Therefore, provided the necessary entries are made or produced, at least weekly, it is considered that such circumstances do not necessarily change the view expressed previously (in paragraph 34).

36. Paragraph (d) of the definition of 'log book records' in subsection 136(1), requires the respective odometer readings of the car at the beginning and at the end of the journey be entered into the relevant records.

37. The term 'odometer' is not defined in either the FBTAA or the *Income Tax Assessment Act 1997* but the *Macquarie Dictionary*, online edition, defines that term as being 'an instrument for measuring distance passed over, as by a motor vehicle'.

38. However, the term 'odometer records', as defined in subsection 136(1) makes reference to 'odometer readings of the car'. In this regard, it is concluded that, whilst odometer readings must pertain to the car, it does not necessarily mean that they must also be attributable either wholly or in part to the rotation of the car's wheels, thereby mechanically moving the standard odometer fitted in the car by the manufacturer.

39. Provided the device used to determine the car's odometer readings is of sufficient integrity it can be accepted that a system other than the car's own odometer may meet the FBTAA legislative requirements.

40. Each time the car is driven, the start and end odometer readings for the journey are calculated by the Navman Wireless system from the GPS and other telemetry data recorded. It is accepted that the opening and closing odometer readings calculated by the Navman Wireless system are of sufficient integrity to be 'odometer readings of the car'.

41. It is considered that the opening and closing odometer readings for each car journey detailed on the Navman Wireless system 'FBT Trip Report' satisfies the requirements of paragraph (d) of the definition of 'log book records' in subsection 136(1).

42. The Navman Wireless system 'FBT Trip Report' sets out particulars that readily satisfy paragraphs (c), (e) and (f) of the definition of 'log book records' in subsection 136(1).

43. However, the definition of 'log book records', in subsection 136(1), also requires that each business journey recorded in the log book records be in relation to a 'period'.

44. Paragraph (a) of section 10A refers to log book records being maintained for an 'applicable log book period'.

45. The term 'applicable log book period' is defined in subsection 162H(1) as follows:

**162H(1) [Car fringe benefit]**

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 car while it was held by a particular person during a particular period (in this subsection called the '**holding period**') starting or ending in a year of tax, a reference to the applicable log book period is a reference to:

- (a) if the holding period is a period of less than 12 weeks – the holding period; or
- (b) in any other case – a continuous period of not less than 12 weeks that begins and ends during the holding period.

46. It is accepted, in the absence of evidence to the contrary in a particular case, that all employers using the Navman Wireless system 'FBT Trip Report' in relation to any car fringe benefits they provide will maintain the necessary records for the duration of the 'applicable log book period' (as that latter term is defined in subsection 162H(1)).

47. It is considered that the Navman Wireless system 'FBT Trip Report' satisfies all the relevant requirements of the definition of 'log book records' as defined in subsection 136(1).

**Does the Navman Wireless system 'FBT Trip Report' satisfy the requirements of the definition of 'odometer records'?**

48. The term 'odometer records' is defined in subsection 136(1) as follows:

**odometer records**, in relation to a car, in relation to a period, means a document in which particulars of:

- (a) the odometer reading of the car at the commencement of the period; and
- (b) the odometer reading of the car at the end of the period; and
- (c) ...
- (d) (Omitted by No 145 of 1995)
- (e) (Omitted by No 145 of 1995)

are entered in the English language, at, or as soon as reasonably practicable after, the respective times to which those odometer readings relate.

49. The definition of 'odometer records' in subsection 136(1), requires that odometer readings be recorded in relation to both the 'commencement of the period' and at the 'end of the period'.

50. The Navman Wireless system 'FBT Trip Report' provides details of the odometer reading for the car at the start of the first recorded journey and also the odometer reading for the car at the end of the last recorded journey that were undertaken during each report period.

51. As stated previously (at paragraph 46), it is accepted in the absence of evidence to the contrary in a particular case, that all employers using the Navman Wireless system trip will maintain the necessary records for the 'applicable log book period'.

52. It was determined previously (at paragraph 34) that a Navman Wireless system 'FBT Trip Report' provided by the Navman Wireless system meets the necessary requirement of having entries 'made in the English language at, or as soon as reasonably practicable after, the end of the journey'.

53. Therefore, it is considered that the Navman Wireless system 'FBT Trip Report' satisfies all the relevant requirements of the definition of 'odometer records' as defined in subsection 136(1).

## **Conclusion on whether the Navman Wireless system 'FBT Trip Report' meets the relevant requirements of section 10A**

54. As determined previously (at paragraphs 47 and 53 respectively), the Navman Wireless system 'FBT Trip Reports' are 'log book records' and 'odometer records' for the purposes of paragraph (a) of section 10A.

55. It is also accepted, in the absence of any evidence to the contrary in a particular case, that all remaining applicable requirements of section 10A will be met by employers using the Navman Wireless system 'FBT Trip Report'.

56. An employer using the Navman Wireless system 'FBT Trip Report' is, consequently, entitled to a reduction of the operating costs of a car on account of business journeys, in a log book year of tax, as the Navman Wireless system 'FBT Trip Report' meets the relevant requirements of section 10A.

**Does the Navman Wireless system 'FBT Trip Report' meet the relevant requirements of section 10B?**

57. Section 10B states:

**SECTION 10B**

**10B NO REDUCTION OF OPERATING COST IN A NON-LOG BOOK YEAR OF TAX UNLESS LOG BOOK RECORDS AND ODOMETER RECORDS ARE MAINTAINED IN LOG BOOK YEAR OF TAX**

Where one or more car fringe benefits in relation to an employer in relation to a year of tax relate to a car while it was held by a particular person (in this section called the '**provider**') during a particular period (in this section called the '**holding period**') in a year of tax that is not a log book year of tax of the employer in relation to the car, the employer is entitled to a reduction in the operating cost of the car on account of business journeys undertaken during the holding period in the car if, and only if:

- (a) odometer records are maintained by or on behalf of the provider in relation to the car for the holding period and, if the provider is not the employer, are given to the employer before the declaration date; and
- (b) the employer specifies the employer's estimate of the number of business kilometres travelled by the car in the holding period; and
- (c) the employer specifies the business use percentage applicable to the car in relation to the provider for the holding period.

58. As determined previously (at paragraph 53) the Navman Wireless system 'FBT Trip Report' will satisfy the definition of the term 'odometer records' in subsection 136(1). For similar reasons, it is considered that the Navman Wireless system 'FBT Trip Report' will be 'odometer records' for the purposes of paragraph (a) of section 10B.

59. It is also accepted, in the absence of any evidence to the contrary in a particular case, that all remaining requirements of section 10B will be met by employers using the Navman Wireless system 'FBT Trip Report'.

***Conclusion on whether the Navman Wireless system 'FBT Trip Report' meets the relevant requirements of section 10B***

60. An employer using the Navman Wireless system 'FBT Trip Report' is, consequently, entitled to a reduction of the operating costs of a car on account of business journeys, in a non-log book year of tax, as the Navman Wireless system 'FBT Trip Report' meets the relevant requirements of section 10B.

## **Appendix 2 – Detailed contents list**

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61. The following is a detailed contents list for this Ruling:

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## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

TR 2006/10; CR 2008/86;

*Subject references:*

- car fringe benefits
- log book records
- odometer records

*Legislative references:*

- FBTAA 1986 10
- FBTAA 1986 10A
- FBTAA 1986 10B
- FBTAA 1986 136(1)
- FBTAA 1986 162G
- FBTAA 1986 162H
- TAA 1953
- Copyright Act 1968

*Other references:*

- The Macquarie Dictionary on-line,
  - ATO ID 2002/925
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*ATO references*

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