

# ***PCG 2018/3 - Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles***

! This cover sheet is provided for information only. It does not form part of *PCG 2018/3 - Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles*

! This Guideline applies to the 2019 and later FBT years. Our compliance approach for the 2018 FBT year is set out in PCG 2017/D14.

! There is a Compendium for this document: **PCG 2018/3EC** .



## Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles

### Relying on this Guideline

*This Practical Compliance Guideline sets out a practical administration approach to assist taxpayers in complying with relevant tax laws. Provided you follow this Guideline in good faith, the Commissioner will administer the law in accordance with this approach.*

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### What this Guideline is about

1. Generally, a fringe benefit arises where an employer makes a vehicle they hold available for the private use of its employee. However, under subsections 8(2) and 47(6) of the *Fringe Benefits Tax Assessment Act 1986*<sup>1</sup> (the car-related exemptions), a fringe benefit is an exempt benefit where the private use of eligible vehicles by current employees during a fringe benefits tax (FBT) year is limited to work-related travel, and other private use that is 'minor, infrequent and irregular'.

2. Feedback and experience has shown inconsistency as to methods used by employers to ensure compliance with the car-related exemptions, leading to additional compliance costs, especially when the private travel is relatively low. To reduce these compliance costs and provide certainty, this Guideline explains when the Commissioner will not apply compliance resources to determine if private use of the vehicle was limited for the purposes of the car-related exemptions.

<sup>1</sup> All further legislative references are to this Act.

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3. 'Work-related travel' is defined in subsection 136(1) to include travel by an employee between his or her place of residence and place of employment or other place at which employment duties are performed.<sup>2</sup>

4. This Guideline does not affect the operation of the car-related exemptions. If you choose not to rely on this Guideline or do not meet the requirements in paragraph 6 of this Guideline; you can rely on the relevant provisions of the FBT law to determine if you can access the car-related exemptions for car and residual benefits that you provide. You are encouraged to engage with us early (for example, by applying for a private ruling) if you are uncertain as to whether you can access the car-related exemptions.

#### **Date of effect**

5. This Guideline applies to car and residual benefits provided in the 2019 and later FBT years.<sup>3</sup>

#### **Application**

6. You may choose to rely on this Guideline if:

- (a) you provide an *eligible vehicle*<sup>4</sup> to a current employee
- (b) the vehicle is provided to the employee for business use to perform their work duties
- (c) the vehicle had a GST-inclusive value less than the luxury car tax threshold<sup>5</sup> at the time the vehicle was acquired
- (d) the vehicle is not provided as part of a salary packaging arrangement<sup>6</sup> and the employee cannot elect to receive additional remuneration in lieu of the use of the vehicle
- (e) you have a policy in place that limits private use of the vehicle and obtain assurance<sup>7</sup> from your employee that their use is limited to use as outlined in subparagraphs (f) and (g) of this paragraph
- (f) your employee uses the vehicle to travel between their home and their place of work and any diversion adds no more than two kilometres to the ordinary length of that trip, and
- (g) for journeys undertaken for a wholly private purpose (other than travel between home and place of work), the employee does not use the vehicle to travel
  - (i) more than 1,000 kilometres in total, and
  - (ii) a return journey that exceeds 200 kilometres.

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<sup>2</sup> Travel undertaken by an employee with a passenger would result in private use of the vehicle and the travel not being 'work-related travel' for the purposes of subsection 136(1). Refer to ATO Interpretative Decision ATO ID 2012/97 *Fringe benefits tax - exempt car benefits: private use*.

<sup>3</sup> PCG 2017/D14 *Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles* provides the Commissioner's compliance approach for car and residual benefits provided in the 2018 FBT year.

<sup>4</sup> Refer to Eligible vehicles.

<sup>5</sup> For more information on the luxury car tax threshold, refer to Luxury car tax rate and thresholds.

<sup>6</sup> As defined in subsection 136(1).

<sup>7</sup> You must be satisfied (on reasonable grounds) as a result of this assurance that the private use of the vehicle was limited.

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## **The ATO's compliance approach**

7. You do not need to rely on this Guideline, but if you do:
- (a) you do not need to keep records about your employee's use of the vehicle that demonstrate that the private use of the vehicle is 'minor, infrequent and irregular'<sup>8</sup>, and
  - (b) the Commissioner will not devote compliance resources to review that you can access the car-related exemptions for that employee.
8. You will need to check that you continue to meet the requirements in paragraph 6 of this Guideline in each year you provide the car or residual benefit and wish to rely on this Guideline.

### **Example 1 – diversion and wholly private travel**

9. *An employer provides an employee with a new panel van designed to carry a load of less than one tonne. The van is provided to the employee to enable the employee to carry bulky equipment to and from their work sites. The van is not provided as part of a salary packaging arrangement, and was acquired for a value below the applicable luxury car tax threshold.*
10. *The van is an eligible vehicle. The van is garaged at the employee's home and the employee uses the van to travel between their home and their place of employment. The employer has a strict policy in place about limiting the private use of the vehicle.*
11. *The employee usually stops at the newsagent to pick up a newspaper on their way to work. The diversion adds no more than two kilometres to the total trip from home to work.*
12. *On 10 occasions during the FBT year, the employee also transported their niece to school in the van during the employee's journey from home to work. The journeys from home to work generally do not exceed 20 kilometres.*
13. *At the end of the 2019 FBT year, the employer receives an email from the employee. The email outlines that multiple journeys were undertaken in the FBT year for a wholly private purpose and these journeys did not exceed 1,000 kilometres in total. The employee also outlines in the email that in driving to and from work, no diversions were undertaken that exceeded two kilometres. The employer is satisfied that the employee has adhered to their policy about limited private use.*
14. *The employer is able to rely on this Guideline as the requirements in paragraph 6 of this Guideline are met.*

### **Example 2 – not a diversion**

15. *Assume the same facts as in Example 1. However, during the football season the employee attends weekly football training after work. The diversion adds more than two kilometres to the total journey from work to home.*
16. *The employee's travel from work to football training is not considered to be a diversion, as the primary purpose of the journey was for the employee to travel to football training, not from work to home. Additionally, the travel to attend this weekly football training and the travel to transport their niece exceeds 1,000 kilometres. Therefore, the employee cannot provide assurance that the requirements in paragraph 6 of this Guideline are met and the employer will not be able to rely on this Guideline.*

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<sup>8</sup> Other than the policy and assurance which satisfy the requirements in subparagraph 6(e) of this Guideline.

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17. The employer will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.

### **Example 3 – limited wholly private travel**

18. An employer provides a car benefit to an employee. The vehicle is a panel van designed to carry a load of less than one tonne and is fitted with a navigation device. The employee uses the van to transport goods in their role as a courier driver. The van was acquired for a value below the applicable luxury car tax threshold and is not provided under a salary packaging arrangement.

19. The employee provides confirmation to the employer that their private use of the van during the year was limited to:

- taking domestic rubbish to the tip (100 kilometres return journey), and
- moving residences and travel from home to the new residence three times (200 kilometres travelled in total).

20. The journeys undertaken for a wholly private purpose by the employee in the 2019 FBT year amounted to 300 kilometres in total and no more than 200 kilometres was travelled in a return journey. The employer is satisfied that the employee has adhered to their policy about limited private use and is able to rely on this Guideline.

### **Example 4 – not limited private use**

21. Assume that the employer is aware that the van provided to the employee in Example 3 of this Guideline was also used by the employee to travel to the beach on a public holiday and is not satisfied with the assurance provided. The employee acknowledges they used the vehicle to travel to the beach and that the return journey exceeded 200 kilometres. As each return journey must not exceed 200 kilometres, the return journey to the beach would not fall within this Guideline.

22. Accordingly, even though the journeys undertaken wholly for a private purpose do not exceed 1,000 kilometres, the employer will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.

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**Commissioner of Taxation**

11 July 2018

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## References

ATOlaw topic(s)	Fringe benefits tax ~~ Exempt benefits ~~ Exempt car benefits ~~ Exempt application or availability
Previous draft	PCG 2017/D14
Legislative references	FBTAA 1986 FBTAA 1986 8(2) FBTAA 1986 47(6) FBTAA 1986 136(1)
Other references	<u>Fringe Benefits Tax – Exempt Motor Vehicles</u> <u>Luxury car tax rate and thresholds</u> ATO ID 2012/97
ATO references	1-B61XN2G
BSL	PGH

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