


***TD 93/D191 - Income tax: car expense substantiation: if a taxpayer uses a car to travel more than 5000 kilometres for income producing purposes, can the cents per kilometre method be used to make a claim for car expenses by limiting the claim to 5000 kilometres?***

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This document has been finalised by TD 93/243.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Income tax: car expense substantiation: if a taxpayer uses a car to travel more than 5000 kilometres for income producing purposes, can the cents per kilometre method be used to make a claim for car expenses by limiting the claim to 5000 kilometres?**

1. No. The operation of section 82KX is clear - the cents per kilometre method can only be used where the taxpayer has used the car to travel no more than 5000 kilometres for income producing purposes. The section provides no discretion to allow its application where the income producing travel is more than 5000 kilometres. It is the number of kilometres **travelled** by the taxpayer in the car for income producing purposes and not the number of kilometres used in the calculation of a **claim** for car expenses which allows the section to be used.

2. Some relief from the substantiation provisions may be provided by the discretion in section 82KZAA but its application depends on, among other things, the nature and quality of the records kept and the extent to which the taxpayer attempted to comply with the provisions. In any event, the discretion only applies to the 'substantiation sections' which, according to the definition in section 82KT, do not include section 82KX. In other words, the discretion in section 82KZAA does not override the requirement of section 82KX that the taxpayer use the car to travel no more than 5000 kilometres for income producing purposes.

3. This Determination involves a change in our practice. Accordingly, it applies only to the 1993-94 and later years of income. For the 1992-93 and earlier years of income, a taxpayer who has used a car to travel more than 5000 kilometres for income producing purposes may use the cents per kilometre method to make a claim for car expenses by limiting the claim to 5000 kilometres.

#### *Example*

*Frank is an employee salesperson who used his car for work related travel during the 1993-94 income year. He has odometer records showing that the car travelled 15,000 kilometres for this purpose. Frank was not very careful in maintaining a log book of his travel and in keeping receipts of his car expenses. In an attempt to recoup at least some of the cost of maintaining and using his car for income producing purposes, he proposes to limit his claim to 5000 kilometres and use the cents per kilometre method. Frank thinks that this will be okay because he's sure that his income producing travel cost him much more than the amount he intends to claim.*

*The cents per kilometre method is not available to Frank because he travelled more than 5000 kilometres in his car for income producing purposes. Frank will need to consider if his records are sufficient to allow a claim under one of the other methods of substantiating car expenses.*

**Commissioner of Taxation**

12/8/93

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Related Determinations:

Related Rulings:

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Legislative Ref: ITAA 82KT; ITAA 82KX; ITAA 82KZAA

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