

LI 2023/23 - Explanatory statement -



Explanatory Statement

Income Tax Assessment (Cents per Kilometre Deduction Rate for Car Expenses) Determination 2023

General outline of instrument

1. This instrument is made under subsection 28-25(4) of the *Income Tax Assessment Act 1997* (the Act).
2. The instrument sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method. The Commissioner of Taxation has determined the rate to be 85 cents per kilometre for the income year commencing 1 July 2023 (and subsequent income years, until such time as the instrument is repealed or varied).
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Date of effect

5. This instrument commences on 1 July 2023.

Effect of this instrument

6. This instrument varies the cents per kilometre deduction rate for car expenses to 85 cents per kilometre (the previous rate was 78 cents per kilometre).
7. This rate will remain applicable until the Commissioner determines that it should be varied.
8. This instrument ensures that taxpayers and tax practitioners have certainty about the rate at which work-related car expense deductions may be claimed using the cents per kilometre method.

Compliance cost assessment

9. Compliance cost impact: Minor – There will be no additional regulatory impacts as the instrument is minor and machinery in nature OIA23-04951.

Background and methodology

10. This instrument has been developed to ensure that the rate for claiming work-related car expense deductions using the cents per kilometre method is updated to reflect recent average operating costs for cars. The rate has been updated in accordance with the annual movement of the Private Motoring Subgroup of the consumer price index (CPI), rounded to the nearest whole cent within the year.

11. The latest Private Motoring Subgroup of the CPI numbers can be obtained from the Australian Bureau Statistics website for the latest CPI release, by downloading Table 7 and looking for the series Index Numbers; Private motoring; Australia; (series ID A2326656J).

12. Subsection 28-25(4) of the Act enables the Commissioner to determine rates of cents per kilometre for cars (as defined in subsection 995-1(1) of the Act) for an income year.

13. Subsection 28-25(5) of the Act requires the Commissioner, when determining the rate, to have regard to the average operating costs for the cars to be covered by that rate.

14. To take into account variation within the year, the average index of the four most recent quarters for which data is available is used.

$$Ind_{av} = \frac{Ind_{jun} + Ind_{sep} + Ind_{dec} + Ind_{mar}}{4}$$

15. The indexation factor is the ratio of the average index of the four most recent quarters with that of the previous year.

$$Indexation\ Factor = \frac{Ind_{jun22\ to\ mar23}}{Ind_{jun21\ to\ mar22}}$$

16. After applying the indexation factor to the published rate for the 2022–23 income year of 78 cents per kilometre, the Commissioner has determined that the rate of 85 cents per kilometre will apply for the income year commencing from 1 July 2023 (and subsequent income years, until such time as the instrument is repealed or varied).

Consultation

17. For this instrument, broad public consultation was undertaken for a period of 3 weeks to 22 May 2023.

18. The draft instrument and draft explanatory statement were published to the ATO Legal database. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on ato.gov.au. Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and newsletters to their subscribers and members. This ensures advice of the draft is disseminated widely across the tax professional community, and that they are in an informed position to provide comments and feedback.

19. No comments were received as a result of the consultation.

Legislative references

Acts Interpretation Act 1901

Human Rights (Parliamentary Scrutiny) Act 2011

Income Tax Assessment Act 1997

Legislation Act 2003

Statement of compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

This instrument sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it simply sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.