Nexia Edwards Marshall

Fringe Benefits Tax: Car Benefits

Does your employer provide you with a motor vehicle that is also available for private use?

A car benefit arises where a car, that is either owned, leased or otherwise made available by a benefit provider (generally the employer), is:

- used by an employee (or an associate such as their spouse) for private purposes; or
- is deemed to be available for private use.

This must be determined on a daily basis.

What is a 'car' for FBT purposes?

Car is defined to mean a motor vehicle (including a 4WD), being:

a. a motor car, station wagon, panel van, utility truck or similar vehicle, designed to carry a load of less than one tonne; or

b. any other road vehicle designed to carry a load of less than one tonne or fewer than nine passengers.

The definition of a car does not include a motor cycle or similar vehicle.

As a literal interpretation of paragraph (b) of the above definition could conceivably capture a vast array of vehicles that are clearly not a car, (i.e. a prime mover, since it is the trailer that carries the load), the tax office have interpreted paragraph (b) to only include:

- goods-carrying vehicles with a designed carrying capacity of less than one tonne; and
- all other passenger carrying vehicles with a designed carrying capacity of fewer than 9 passengers.

What is a goods-carrying vehicle?

A vehicle is considered to be a goods-carrying vehicle where more than 50% of its carrying capacity is designed for goods rather than passengers.

The carrying capacity of a vehicle is determined by subtracting the kerb weight of the vehicle (i.e. the weight of the vehicle including accessories, full fuel and all coolants and lubricants, spare wheel and jack) from its gross vehicle weight per the compliance plate.

The goods-carrying capacity of a vehicle = carrying capacity – passenger carrying capacity

The passenger carrying capacity is determined by multiplying the designed seating capacity of the vehicle by an assumed standard passenger weight of 68 kg (refer miscellaneous tax ruling MT 2024 paragraph 15). This standard passenger weight is used for the purposes of application of the Australian Design Rules.

Note that whilst a motor vehicle that does not satisfy the definition of a car would not result in a car fringe benefit, the provision of such a vehicle for the private use of employees or their associates may result in the provision of a residual benefit.

Example: Goods carrying vehicle

A vehicle, not being a motor car, station wagon, panel van, utility truck or similar vehicle has a kerb weight of 900kg and a gross vehicle weight of 1,600 kg. The vehicle is designed to seat 5 passengers including the driver.

The carrying capacity of the vehicle is 700kg (1,600 kg – 900 kg). The passenger carrying capacity is 340kg (5 x 68 kg), leaving the remainder of the carrying capacity of 360 kg for goods.

As this represents more than 50% (51.43% = 360 kg/700 kg x 100/1) of the vehicles total carrying capacity, the vehicle is not a car for the purposes of the FBT legislation.

Exemption for Certain Vehicles

An exemption is provided in respect of a car benefit provided in respect of a current employee where the car is:

- a taxi, panel van or utility truck, designed to carry a load of less than 1 tonne; or
- any other road vehicle designed to carry a load of less than 1 tonne (other than a vehicle designed for the principal purpose of carrying passengers); and
- where there was no private use of the car during the year of tax other than:
  - work-related travel of the employee; and
  - other private use by the employee or an associate of the employee, being other use that was minor, infrequent and irregular.

A similar exemption exists in relation to the provision of a residual benefit of a motor vehicle that is not a car, and unregistered motor vehicles that are used solely or principally in the taxpayer's business.

Miscellaneous tax ruling MT 2024 and its appendices detail the makes and models of dual-cab utilities that are eligible for this exemption.

What is meant by 'available for private use'?

A car benefit will only arise where a car is either used for private purposes or taken to be available for private use.

A car that is garaged or kept at or near a place of residence of the employee or of an associate of the employee; is taken to be available for the private use of the employee or associate. This will be the case irrespective or whether or not there is any private use. Even where a car is garaged on the employer's business premises, it will be taken to be available for private use if such premises are at or near to the employee's or associate's place of residence. The tax office has not provided any guidance on what is considered to be 'near' to a place of residence.

In addition, where a car is not parked on the business premises of the employer, a car will be taken to be available for private use where either of the following conditions is satisfied:

- the employee (or their associate) is entitled to apply the car to a private use; or
- the employee (or their associate) is not performing the duties of his or her employment and has custody or control of the car.

The broad interpretation given to 'available for private use' has the effect that a vehicle may be deemed to be available for private use even where it is not physically possible to use the car, such as in the case of a vehicle that is driven to an airport by an employee and left in the airport car park whilst the employee travels overseas or interstate on business. Class ruling CR 2009/3, which relates solely to the Sydney Airport Car Park, details the circumstances under which a car parked at that facility will not be taken to be available for private use.

Valuation Methods

The valuation of car benefits can be measured using one of two methods.

These methods are known as:

- Statutory Method
- Operating Cost Method

Statutory Method

The taxable value of car fringe benefits calculated using the statutory method is determined as follows:

$$\textbf{Taxable value} = \frac{A \times B \times C}{D} - E$$

where:

A is the base value of the car;

B is the statutory rate;

C is the number of days during the FBT year on which a car fringe benefit was provided;

D is the number of days in the FBT year;

E is the amount of contribution made by the recipient of the benefit (if any).

Base Value – Component A

The base value is the original cost price to the provider, where it was first owned by the benefit provider. Where the vehicle is first leased by the provider, the base value is the original leased car value. If the vehicle was originally owned or leased by an associate, the base value is the original cost price at the time when the associate first held the vehicle. Base value also includes the GST-inclusive cost of any non-business accessories fitted to the car such as a CD or DVD player.

Cost price is the expenditure attributable to the purchase and delivery of the vehicle (i.e. including dealer delivery charges, GST and luxury car tax where applicable), but excluding stamp duty and transfer fees. Cost price is not limited to the luxury car depreciation cost limit that applies for income tax purposes.

Cost price does not include registration, insurance or the cost of extended warranties, which may be included in the purchase invoice for a car.

Fleet discounts and manufacturer rebates will reduce the cost price of the car for FBT purposes. Cost price may also be reduced where a vehicle owned by an employee is traded-in against a vehicle acquired by the employer or a lessor, from whom the vehicle will be leased by the employer. Similarly a cash payment made by an employee to the dealer, or to the employer, will reduce the amount of cost that will be borne by the employer (either directly or via a reduction in lease payments), and hence will also reduce the cost price of the car.

Leased car value is determined where the lessor purchased the car at or about the time the provider commenced to lease the car from the lessor, the leased car value is the 'cost price' of the car to the lessor.

Where the lessor did not purchase the car at or about the time the provider commenced to lease it from the lessor, the leased car value is the arms-length value of the car at the time the provider or associate first held the car. For example, where an employee commences a job with a new employer and transfers a car that was previously provided by their former employer under a novated lease arrangement to their new employer, the leased car value will be the market value of the vehicle at the time when the new employer enters into the novated lease arrangement. If the two employers were associated however, the leased car value would be the value when first leased by the former employer.

Base Value – Component A (continued)

The base value of the vehicle is reduced by one third from the commencement of the FBT year, following the period after the vehicle has been owned or leased for a period in excess of four years. This will almost always occur in the fifth year after the vehicle is first held.

The component of the base value attributable to any non-business accessories fitted after the first holding time is not subject to the one-third reduction after four years.

Statutory Rate – Component B

As a result of changes announced in the 2011 Federal Budget, the statutory rates were progressively replaced by a single flat rate of 20%. From 1 April 2014, the 20% statutory rate applies to all car benefits which commenced after 7:30pm EST on 10 May 2011.

The following table identifies when the changes to the new statutory rates apply for a particular vehicle.

If	Then
▪ The car benefit commenced to be provided before 7:30pm EST on 10 May 2011; and ▪ There has been no new commitment made with respect to this vehicle after that time.	The old statutory rates continue to apply.
▪ The car benefit commenced to be provided before 7:30pm EST on 10 May 2011; but ▪ A new commitment has been made after this time with respect to the vehicle.	The old statutory rates apply until the end of the FBT year in which the new commitment is made. The new statutory rates apply from the start of the following FBT year.
▪ The car benefit commenced to be provided after 7:30pm EST on 10 May 2011; and ▪ There is no pre-existing commitment with respect to this vehicle.	The new statutory rates apply from when the car benefit is first provided.

Note that for new commitments only, an employer can choose to skip the transitional arrangements and apply the new flat rate of 20%; however these rules cannot be skipped where it would cause an employee to be financially worse-off, unless the written consent of the affected employee was given. This could occur in situations where a vehicle was supplied under a salary sacrifice arrangement, where the adoption of the new flat rate would result in a higher employee recipient payment or salary sacrifice amount. This choice is made on a car by car basis.

Old Statutory Rates

The old statutory fractions are as follows:

Annualised* Kilometres Travelled by Vehicle	Statutory Rate
0 - < 15,000 km	0.26
15,000 to < 25,000 km	0.20
25,000 to 40,000 km	0.11
> 40,000 km	0.07

The statutory rate varies according to the total distance travelled by the car during the year (i.e. including both business and private travel). Distance travelled is determined from signed odometer records that are required to be kept as at the 31st March of each year, and also on the purchase or sale of a vehicle.

*Where a vehicle is only owned or leased for part of an FBT year, the annualised kilometres are determined as follows:

$$\frac{\text{Kilometres Travelled}}{\text{No. of days vehicle owned or leased}} \times \frac{\text{No. of Days in FBT Year}}{1}$$

As mentioned above, a car fringe benefit will be taken to have been provided on any particular day, when it is either used for private purposes by an employee or an associate, or where it is available for private use on a particular day by such a person.

New Statutory Rates

The new rates are subject to transitional arrangements, phasing them in between 10 May 2011 and 1 April 2014.

Annualised * Kilometres Travelled by the Vehicle	Statutory Rate			
	From 10 May 2011 to 31 March 2012	2013 FBT Year	2014 FBT Year	2015 FBT Year
0 - < 15,000 km	0.20	0.20	0.20	0.20
15,000 to < 25,000 km	0.20	0.20	0.20	0.20
25,000 to 40,000 km	0.14	0.17	0.20	0.20
> 40,000 km	0.10	0.13	0.17	0.20

What Constitutes a New Commitment?

The last time on which:

- the employer, or an associate of the employer; or
- the employee, or an associate of the employee;

committed to the application or availability of the car, will constitute the last commitment time with respect to a particular vehicle. A commitment is one that is financially binding on one or more of the parties.

The following examples are considered to be new commitments:

- A vehicle that was originally provided to one employee, is subsequently provided to a different employee.
- A vehicle that was under a novated lease arrangement between a former employer, an employee and the lessor is renegotiated with the new employer on a change of employment by the employee.
- The finance with respect to an existing vehicle is renegotiated.
- The provision of a car to an employee under a salary sacrifice arrangement that was formerly a pooled vehicle.

No. of Days on Which a Car Benefit was Provided – Component C

A car benefit is provided on each day on which a car is used for private purposes or taken to be applied for private purposes. Hence if a car is available for private use for only one minute on a particular day, a car benefit will arise on that day.

The National Tax Liaison Group – FBT Sub-committee minutes of 24th March 1994, also take the view that where a car is held in a repair workshop overnight it is still considered to be available for private use unless it was held for major repairs, such as a car garaged at a crash repairer for two weeks following a major accident. It appears that the ATO will only consider a vehicle to be unavailable for private use as a consequence of repairs, where the vehicle is essentially unroadworthy.

Recipient Payments – Component E

Recipient payments can take two different forms:

- a payment by the benefit recipient (i.e. the employee or an associate) to the benefit provider (generally their employer) in connection with the provision of the car; and/ or
- payments made by the benefit recipient to third parties for un-reimbursed costs relating to the car, (i.e. where an employee pays for fuel or other vehicle running expenses for the car, that are not reimbursed to them by their employer).

Record Keeping Requirements under the Statutory Method

The following records are required to be maintained where the taxable value of car benefits is determined using the statutory method:

- Records to substantiate the base value of the car, purchase/lease date and disposal date where applicable
- Odometer records
- Records to substantiate the number of days on which a car benefit was provided where this is less than the number of days during the FBT year that the car was held.

Operating Cost Method

The value of fringe benefits under the operating cost method is calculated based on the GST inclusive operating costs (including certain implied or deemed costs) of the car incurred during the FBT year multiplied by the non-business percentage, as determined from a log book which has been correctly maintained for at least a 12 week continuous period. This value is then reduced to the extent of any recipient payments.

Where recipient payments have been made to third parties in relation to the operating costs of the car (such as for vehicle insurance, registration, repairs or fuel), these amounts are also included in the value of operating costs.

For car benefits assessed under the operating cost method, receipts must be maintained for all motor vehicle expenses. The only exception to this is in relation to fuel and oil costs, provided a declaration is provided by the benefit recipient of estimated fuel and/or oil costs that has been based on the total kilometres travelled during the year per the odometer records, average fuel costs and fuel consumption.

For the purposes of assessing car benefits under the operating cost method, motor vehicle operating costs include either:

- depreciation and deemed interest (where the vehicle is owned or under a hire purchase arrangement); or
- leasing charges.

The deemed depreciation amount in respect of a car under the operating cost method is essentially calculated by multiplying the depreciated value or cost price of the car (whichever is appropriate) by the car's FBT depreciation rate.

The following table outlines the correct FBT depreciation rate that should be used for a car to calculate the deemed depreciation under the operating cost method from 1 April 2009:

Date car acquired	Depreciation rate
Before 1 July 2002	22.50%
From 1 July 2002 to 9 May 2006	18.75%
On or after 10 May 2006	25.00%

For a vehicle that is either owned, subject to a chattel mortgage or under a hire purchase arrangement, a deemed interest amount is calculated and included in operating costs. Any interest actually payable on any financing arrangement is ignored for FBT purposes. Interest is calculated using a statutory interest rate which is revised each year. This rate (5.95% for the 2015 FBT year) represents the standard variable rate for owner-occupied housing loans of the major banks, last published by the Reserve Bank before the commencement of the FBT year and is published on the Australian Taxation Office website.

Operating Cost Method (continued)

Record Keeping Requirements under the Operating cost Method

Where a logbook has been properly maintained in a particular year (known as a logbook year), this can be used as a basis for up to four future years (non-logbook years).

A new logbook is required to be kept in the following circumstances:

- every five years;
- when requested to do so; or
- when a taxpayer wishes to vary their business percentage.

A correctly completed logbook may be used for up to four future consecutive years

In respect of car benefits assessed under the operating cost method, the records set out in the following table are required to be maintained in a logbook year and non-logbook year respectively.

Logbook Year	Non-Logbook Year
Logbook Records	
Odometer readings for each vehicle at the end of the FBT year, (i.e. on 31 March), and on the purchase or disposal of a vehicle.	Odometer readings for each vehicle at the end of the FBT year, (i.e. on 31 March), and on the purchase or disposal of a vehicle.
Records to substantiate the vehicle operating expenses for the FBT year	Records to substantiate the vehicle operating expenses for the FBT year
Records of any recipient payments, including copies of invoices etc. where they are made to third parties.	Records of any recipient payments, including copies of invoices etc. where they are made to third parties.
An estimate by the employer of the number of business kilometres travelled by the vehicle during the holding period. (Refer i) below)	An estimate by the employer of the number of business kilometres travelled by the vehicle during the holding period. (Refer i) below)
Calculation of a 'business use percentage' based on the estimated total number of business kilometres travelled during the holding period as a percentage of the total kilometres travelled. (Refer ii below)	Calculation of a 'business use percentage' based on the estimated total number of business kilometres travelled during the holding period as a percentage of the total kilometres travelled. (Refer ii below)
Where a car is replaced during a year, the original business use percentage for the car formerly held can be used for the new car, subject to any changes in the business used of the replacement car. To use this provision however, a written election must be specifically made by an employer detailing the make, model and registration number of both vehicles.	Where a car is replaced during a year, the original business use percentage for the car formerly held can be used for the new car, subject to any changes in the business used of the replacement car. To use this provision however, a written election must be specifically made by an employer detailing the make, model and registration number of both vehicles.

i) The total estimated business kilometres travelled during the holding period should take into account the percentage established by the logbook, together with any other relevant matters such as patterns of vehicle usage, periods of leave taken etc.

ii) The total kilometres travelled during the period are to be determined from the odometer readings.

How can Nexia Edwards Marshall help you?

If you have any questions relating to car benefits, or any other FBT related topic, please contact Raoul Stevenson or your Nexia Edwards Marshall Advisor.

Key contact: Raoul Stevenson

Raoul is a Senior Manager in Nexia Edwards Marshall's Business Consulting and Taxation divisions.

As Senior Manager of the Fringe Benefits Tax (FBT) team, Raoul provides valuable expertise to both the firm and its clients, including schools where he has hosted FBT presentations. His knowledge has helped clients and their staff optimise the benefits of salary sacrifice arrangements.

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