

ATO ATTACKS UTES AND DUAL CAB VEHICLES

The ATO has released draft guidance on the application of the private usage rules surrounding eligible (i.e. commercial – see attached table) vehicles. There is no indication yet as to when the final version will be published, but the rules will be applied from 1 April 2017. This impacts the current FBT reporting year, which ends 31 March 2018.

Effectively, the guideline has clarified the ATO's interpretation of the private usage rules to mean that in the following circumstances, the ATO will accept that the private usage of the eligible vehicle is "minor, infrequent and irregular", thus meaning that no FBT will be payable in respect of the provision of the vehicle.

The circumstances in which the guideline can be applied are as follows:

1. An eligible vehicle is provided by an employer to an employee. See the attached table for more detail on this.
2. The vehicle is provided to the employee to perform their work duties.
3. The employer takes all reasonable steps to limit the private usage of the vehicle and have measures in place to monitor such uses – such as checking odometer readings.
4. The vehicle is not fitted with non-business accessories (excluding those related to safety).
5. The GST inclusive value of the vehicle was less than the luxury car tax limit when acquired.
6. The vehicle is not provided as part of a salary packaging arrangement.
7. The employee uses the vehicle to travel:
 - a. Between their home and place of work and any private diversion adds no more than 2km to the ordinary length of the trip;
 - b. No more than 750km in total for each FBT year for multiple journeys taken for a wholly private purpose; and
 - c. No single wholly private return journey exceeds 200km.

If these circumstances DO exist, you do not need to keep a logbook about your employees' usage of the vehicle to demonstrate that the private usage is "minor, infrequent and irregular". Additionally the Commissioner will not devote compliance resources to review that you can access the car related exemption for that employee. Please read the following examples to understand the Commissioner's practical interpretation of when these circumstances do exist.

If these circumstances DON'T exist, we believe that the employee will need to maintain a logbook as per the usual requirements (i.e. a 12 week logbook must be maintained in the first FBT year the operating cost method is used and then every 5th year after that). FBT will then be calculated based on the normal car operating loss valuation method. Alternatively, the statutory formula method can be applied.

As the new ATO position applies for the 2018 FBT year, you will be required to ensure a declaration is signed by the employee driving the vehicle declaring the business use for the 2018 FBT year, and that this is supported by odometer readings as per the examples overleaf.

PLEASE NOTE: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek advice from SLS to independently verify their interpretation and the information's applicability to their particular circumstances.

SLS ACCOUNTING

Ground Floor, 35 Ventnor Ave, West Perth WA 6005

P: 08 9322 1689 F: 08 9322 7554 E: admin@slsaccounting.com.au

Example 1 - incidental and wholly private travel

An employer provides an employee with a new panel van designed to carry a load of less than one tonne. The van is not provided as part of a salary packaging arrangement, is fitted with business accessories and was acquired for a value below the applicable luxury car tax threshold.

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 advises the employee that private use of the vehicle should be limited and conducts checks to monitor the kilometres travelled.

The employee usually stops at the newsagent to pick up a newspaper on their way to work. The diversion adds less than two kilometres to the total journey from home to work.

On 10 occasions during the FBT year, the employee has 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.

The employer takes an odometer reading at the end of the 2018 FBT year. The employer notes that the total business kilometres the employee claims to have travelled, based on the distance between the employee's home and work is 30,000 kilometres. The odometer reading is 30,250.

The employer is able to rely on this draft Guideline as the requirements in paragraph 5 of this draft Guideline are met:

the diversion to stop at the newsagent adds less than two kilometres to the total home to work travel, and

- the journeys transporting the employee's niece to school are infrequent and irregular and do not exceed 750 kilometres for the year (as evidenced by the odometer reading).

Example 2 - not minor

Assume the 300 kilometres travelled in Example 3 was within a single (return) trip. As each return trip must be less than 200 kilometres, the single trip would not fall within this draft Guideline.

Accordingly, the employer will need to rely on the relevant provisions of the fringe benefits tax law to determine if it can access the car-related exemptions.

Example 3 - not a diversion

Assume the same facts as in Example 1. However, the odometer reading is 31,500 at the end of the 2018 FBT year. 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.

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 and exceeded two kilometres in distance.

Additionally, leaving aside the incidental diversion to collect the newspaper each morning, the employee has undertaken private travel in excess of 750 kilometres during the year (as evidenced by the odometer reading). Therefore, the requirements in paragraph 5 of this draft Guideline are not met and the employer will not be able to rely on this draft Guideline.

Accordingly, the employer will need to rely on the relevant provisions of the fringe benefits tax law to determine if it can access the car-related exemptions.

Example 4 - wholly private travel

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. The employee uses the van to transport goods in their role as a courier driver. The van is garaged at the employee's home and is equipped with standard business accessories. The van was acquired for a value below the applicable luxury car tax threshold and is not provided under a salary packaging arrangement.

The employee travelled a total of 20,000 kilometres in the 2018 FBT year. The employee's private use of the van during the year was limited to:

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

The employee confirms to the employer that no single return journey for a private purpose exceeded 200 kilometres.

As the private kilometres travelled by the employee in the van in the 2018 FBT year amounted to 300 kilometres in total, the employer is able to rely on this draft Guideline.

Exempt vehicle types

Vehicle Type	Requirements	More information
Taxi	Taxis qualify for the work-related use exemption if they are owned or leased and designed to carry a load of less than one tonne and fewer than nine passengers	See subsection 8(2) and 47(6) <i>Fringe Benefits Tax Assessment Act 1986</i> .
Panel van - solid rigid-bodied, non-articulated car, smaller than a truck, without rear side windows	Panel vans qualify for the work-related use exemption	See subsection 8(2) and 47(6) <i>Fringe Benefits Tax Assessment Act 1986</i> .
Single cab ute	Single cab utility trucks qualify for the exemption	See subsection 8(2) and 47(6) <i>Fringe Benefits Tax Assessment Act 1986</i> .
Dual cab ute - different from conventional goods vehicles with extra seats behind the driver and front passenger. They also share a common chassis which can fit a single or dual passenger cab and alternate tray section.	Dual cabs qualify for the work-related use exemption only if they are not designed for the principal purpose of carrying passengers	For an explanation on how to work out if a dual cab is eligible for the exemption, refer to MT 2024 <i>Fringe benefits tax: dual cab vehicles eligibility for exemption where private use is limited to certain work-related travel</i>
Four-wheel drive vehicle (other than utilities and dual cabs)	Four-wheel drive vehicles qualify for the work-related use exemption if they are: <ul style="list-style-type: none"> designed to carry a load of one tonne or more, or designed to carry more than eight passengers, or not designed for the principal purpose of carrying passengers 	See TD 94/19 for examples of factors to consider when deciding whether a four-wheel drive vehicle (other than a utility or dual cab) is designed for the principal purpose of carrying passengers. These factors include: <ul style="list-style-type: none"> the appearance and presentation of the vehicle any relevant promotional literature the emphasis evident in marketing the vehicle's specification load carrying capacity passenger carrying capacity
Modified vehicle	Modified vehicles qualify for the work-related exemption if, for the entire FBT year when the car is provided, a modification or alteration permanently affects the inherent design of the vehicle (e.g. hearses)	See MT 2033 <i>Fringe benefits tax: application of sub-section 8(2) exemption to modified cars</i>
Other road vehicle	Other road vehicles qualify for the work-related used exemption if they are designed to carry: <ul style="list-style-type: none"> a load of one tonne or more, or more than eight passengers 	See subsection 8(2) and 47(6) <i>Fringe Benefits Tax Assessment Act 1986</i> .