

ATO shines the spotlight on FBT & Utility Vehicles

The much anticipated PCG on exempt vehicles and determining private use has been released in draft format by the ATO. Without doubt, the PCG shines a strong spotlight on the FBT obligations and risk for work related and tool of trade vehicles including vans, panel vans, utilities, single cabs and dual cabs.

Draft Practical Compliance Guideline PCG 2017/D14 Exempt car and residual benefits: compliance approach to determining private use of vehicles was released by the ATO on 18 December 2017. Comments close on 9 February 2018.

What does Draft PCG 2017/D14 address?

Draft PCG 2017/D14 provides a new approach for employers to determine if the private use of an exempt vehicle qualifies for an FBT exemption. Whilst the PCG was originally thought to be a safe harbour concession to ease the compliance burden, the release of the Draft PCG has turned out to be quite narrow and limited in application (we think it's more of a canal than a safe harbour!).

In order to rely on the Draft PCG, the following criteria apply:

- (a) the employer provides an *eligible vehicle* to a current employee
- (b) the vehicle is provided to the employee to perform their work duties
- (c) the employer takes all reasonable steps to limit private use of the vehicle and have measures in place to monitor such use
- (d) the vehicle has no non-business accessories
- (e) the vehicle had a GST-inclusive value less than the luxury car tax threshold at the time the vehicle was acquired
- (f) the vehicle is not provided as part of a salary packaging arrangement and the employee cannot elect to receive additional remuneration in lieu of the use of the vehicle, and
- (g) your employee uses the vehicle to travel
 - i. between their home and their place of work and any diversion adds no more than two kilometres to the ordinary length of that trip
 - ii. no more than 750 kilometres in total for each FBT year for multiple journeys taken for a wholly private purpose, and
 - iii. no single, return journey for a wholly private purpose exceeds 200 kilometres.

PCG 2017/D14 provides examples to illustrate when private use of an exempt vehicle will be eligible for exemption under the PCG.

Examples include:

Private travel	Eligible or Ineligible private travel
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. Conclusion: ELIGIBLE
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 total journeys from home to work generally do not exceed 20 kilometres. Conclusion: ELIGIBLE
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. Conclusion: INELIGIBLE
The employee's private use of the van during the year was limited to taking domestic rubbish to the tip (100 kilometres return trip), moving residences and travel from home to the new residence three times (200 kilometres travelled in total).	Each single trip totals no more than 200 kilometres and the total private travel is no more than 300 kilometres. Conclusion: ELIGIBLE
The employee's private use of the van during the year was limited to moving residences and travel from home to the new residence (300 kilometres within a single return trip).	Single trip is greater than 200 kilometres. Conclusion: INELIGIBLE

How will Draft PCG 2017/D14 affect your FBT obligations?

In short, in its current form, the PCG will require detailed travel records to be maintained to prove exemption. In addition, all the qualitative measures will need to be met.

The draft PCG is a notable shift towards increased record-keeping requirements and potentially the need for logbooks to substantiate the individual and cumulative distance of any private use by employees.

The release of Draft PCG 2017/D14 is a strong indication that the ATO are broadening the FBT base and making the FBT exemption requirements more transparent.

Comments on Draft PCG 2017/D14 are due to the ATO by **9 February 2018**. If you have any comments or queries, please provide to us by **20 January 2018**, and we will incorporate in our submission to the ATO.

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If you wish to discuss anything further in relation to FBT, please reach out to our office on 02 8079 2924 or contact Paul directly at paul.mather@fbtnsolutions.com.au.