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Client Information Newsletter - Tax & Super February 2016



Got your car log book ready?

When claiming for work-related car expenses, many taxpayers miss out on maximising their claim due to inadequate record keeping. But also, failing to maintain a valid car log book can cost taxpayers dearly in a Tax Office audit.

Contact Us

Welcome to Collison Accounting's client information newsletter, your monthly tax and super update keeping you on top of the issues, news and changes you need to know. Should you require further information on any of the topics covered, please contact us.

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The car log book is an important piece of tax substantiation for those who use their vehicle in the course of performing their duties. Most will be familiar with the two main instances where a car log book is required.

These include:

- where the individual is claiming a deduction in their personal tax return for work-related car expenses using the log book method, or
- where the individual or their associate has been provided with a car by their employer and is required to maintain a log for fringe benefit tax (FBT) purposes.

PLEASE CONTACT THIS OFFICE IF YOU WISH TO RECEIVE A SAMPLE LOG BOOK.

Why is a "good" log book important?

Over the last several years, the Tax Office has undertaken a motor vehicle registry data matching program to assess the overall taxation compliance of individuals and businesses involved in buying and selling motor vehicles.

The program involves the Tax Office requesting details from the state and territory motor vehicle registering authorities where a vehicle has been transferred or newly registered and the purchase price or market value is equal to or exceeds $10,000.

FBT compliance under scrutiny

The initial appeal to some family businesses in acquiring a car through a company or trust is understandable. These entities are generally entitled to claim input tax credits under the GST regime, with the maximum credit capped at $5,224 for the GST inclusive cost of cars that exceed the current car limit of $57,466.

Notwithstanding this immediate cash flow benefit, the sting in the tail is that some businesses may not be fully aware of their FBT obligations and may be liable to FBT. Through its data matching process, the Tax Office has identified poor FBT compliance by family businesses that provide newly acquired vehicles to the business owner or their family members.

Changes to car expense claims make log books critical

The government recently changed the way that individuals claim their work-related car expenses, which applies from July 1, 2015.

These changes include:

- the cents per kilometre method will use a standard rate of 66 cents per kilometre rather than a rate based on the engine size of the car, and
- the one-third of actual expenses method and the 12% of original value method has been abolished because the Tax Office found that only 2% of taxpayers used these methods.

With the above changes, greater emphasis will be placed on individuals who travel more than 5,000 business kilometres to maintain a valid log book, if they opt for the log book method.

The log book method will therefore benefit an individual if their estimated deduction exceeds $3,300 for the 2015-16 income year (that is, 66 cents x 5,000 kms under the cents per kilometre method). The log book method does however require receipts and a log book to be kept. For some, this may require some diligence!

There's an app for that

The Tax Office's smartphone app containing the *myDeductions* tool may solve the record keeping dilemma, as it enables the individual to capture receipts for work-related car expenses as well as to enter information for a log book.

Although the tool is appropriate for individuals wishing to claim work-related car expenses, the Tax Office has not indicated whether it is appropriate for FBT purposes. In any case, there are other third party apps that may satisfy the requirements under FBT law. Users should satisfy themselves that such apps fulfil the requirements under the tax law (and check with us if you're not sure).

What are the requirements for a valid log book?

The purpose of the log book and accompanying odometer records is to determine the business use percentage of the vehicle.

As a general rule, the higher the business-use percentage:

- under income tax — the greater the deductions that may be claimed for work-related car expenses
- under FBT — the lesser the amount of FBT payable for car benefits.

The requirements for maintaining a log book for income tax and FBT purposes are *mostly* identical, although there are some small differences. The main one is that an FBT log book applies to the relevant FBT year (that is, ending March 31) while an income tax log book applies naturally to an income year (that is, ending June 30).



The **business-use percentage** broadly is the business kilometres for the year divided by the total kilometres travelled (obtained from odometer records).

Things to be mindful of when using a log book include:

- **the log book is valid for five years** – after the fifth year, a new log book will need to kept. A new one can be started at any time (for example, if it no longer reflects the business use)
- **the log book must be kept for at least a continuous 12 week period** – note that the year in which the log book is first kept is referred to as the "log book year"; otherwise it is referred to as a "non-log book year"
- **for two or more cars** – for income tax, the log book for each car must cover the same period. For FBT, one log book must be maintained for each car where multiple cars are provided by an employer
- **the log book must reflect the business use of the vehicle** – this can be tricky where there is home to work travel, travel between workplaces, or if the individual's work is itinerant in nature
- **odometer records must also be kept** – this is crucial for working out the total distance travelled during the year and also for the relevant period that the log book is kept.

The requirements in keeping a log book can be complex – contact this office for further information. The table below is a useful guide to maintaining the relevant records for a log book and non-log book year.

What information must be kept?

Each log book kept must contain:

- when the log book period begins and ends
- the car's odometer readings at the start and end of the log book period
- the total number of kilometres the car travelled during the log book period
- the number of kilometres travelled for each journey (if two or more journeys are made in a row on the same day, this can be recorded as a single journey). The following will need to be recorded:
  - journey start and finishing times
  - odometer readings at the start and end of the journey
  - kilometres travelled
  - reason for the journey
- the percentage of business use (*see note at left*) for the log book period.

In the Tax Office's view, when recording the purpose of the journey, an entry stating "business" or "miscellaneous business" will not be enough. The entry should sufficiently describe the purpose of the journey so that it can be classified as a business journey. Private travel is not required to be shown, but it may help to include in the records to help with calculations.

Generally, most odometer records will be kept as part of the log book, showing the starting and closing odometer records for the relevant period.

We can provide you with a sample log book – please contact this office. ■

Year by year requirements

	Log book year	Non-log book year
Keep a log book recording details of business journey undertaken in the car for a continuous period of at least 12 weeks (the log book period)	✔	✘
Keep odometer records of the total kilometres travelled during that log book period	✔	✘
Keep odometer records of the total kilometres travelled during the FBT year/income year	✔	✔
Estimate the number of business kilometres travelled during the FBT year/income tax year (or part year, if appropriate)	✔	✔
Take into account all relevant matters, including log book, odometer and any other records kept, and a variation in the pattern of business use throughout the year due to things like holidays or seasonal factors	✔	✔



Claiming business website development costs

Most businesses have an online presence – whether to advertise their business or allow customers to purchase goods or services. Websites vary in costs and complexity – from a simple "skin" to a retail site that you may have engaged a web developer to design and set up.

It's just as well then that the Tax Office has recently provided guidance on how you can go about claiming a deduction for your website development costs. This will depend on when you've incurred the costs of developing your website and the size of your business.

START UP COSTS

If you incur the expense before you start running your business, you can typically claim the cost over five years (20% per year) once your business has started up.

AFTER YOU START

Small business (turnover less than $2 million annually)

If you've already started up and your "aggregated turnover" is less than $2 million, you can use the simplified depreciation rules. That means:

- if the cost is less than the instant asset write-off threshold of $20,000, you can claim a deduction for the full expense amount in the income year you incur the expense (until June 30, 2017)
- if the cost is equal to or more than the instant asset write-off threshold, you can allocate it to a general small business pool for accelerated depreciation deductions.

Note that you cannot use the simplified depreciation rules if you've chosen to allocate expenditure on the software to a special "software development pool" allowed under the tax law.

Non-small business (turnover more than $2 million annually)

The rules work like this for non-small business entities:

- for "in-house software", deduct on a straight line basis with an effective life of five years
- if the software is included in a software development pool, deduct different proportions of the expense each year over five years.

Note that "in-house software" costs can only be added to the software development pool if they were incurred to develop software, not to buy software "off the shelf". Chat to us if you would like some clarity on this area.

ONGOING WEBSITE COSTS

Regardless of turnover, you can also claim an outright deduction for certain "ongoing running and maintenance costs", like domain name registration and server hosting costs in the same income year the expenses are incurred.

EXAMPLES

The Tax Office has provided some examples to illustrate its rules regarding website cost claims.

Website package

In July 2015 your small business bought a $2,000 website hosting package. You also have to pay service fees of $50 a month, plus $50 a year for the domain name. You can claim a deduction of $2,000 in your 2015-16 tax return under the simplified depreciation rules, and a deduction for the monthly and yearly fees in the year you incur those expenses.

Software update

You had set up a software development pool in 2012 when you set up your business's first website. In August 2015, you incurred $4,500 in costs to update the software behind the website. You have to allocate this expenditure to the software development pool and can claim a deduction for it over five years.

The rules for claiming a deduction can be complex depending on the nature of your website – contact this office if you require assistance. ■



Save health, and tax, with a salary-sacrificed e-bike

Salary sacrificing a "company car" is a popular option, however you may not be aware that there is also a tax and health incentive with another particular set of wheels — an electrically assisted bicycle (e-bike).

An e-bike is defined as a bicycle-like frame fitted with an electric motor, which provides support when the rider is actively pedalling — the rider therefore is still getting exercise, but the effort is supported by battery power. As with unpowered bicycles, there is no requirement for registration or a driver's licence.

Where an employer enters into a lease with the bike company and the employer provides the use of an e-bike (see panel at left) to an employee under a salary sacrifice arrangement, there is no FBT (according to a recently issued class ruling from the Tax Office).

A requirement is placed on how the e-bike is used (see below) and also that the e-bike must always be the property of the bike company and at the end of the term of the lease the e-bike must go back. This is unlike most car novated leases, where you usually have the option to take possession once you make a balloon payment.

The beauty for the employee under these arrangements is that it simultaneously helps keep the pulse rate up but the tax rate down.

Why it works

Very broadly, a car benefit as described in the FBT rules will only arise where a "car" has been provided to an employee for their private use. The class ruling makes it clear that the type of motor used for propulsion is not a factor, but the classification of the vehicle itself is (car or bike). So a car fringe benefit will not arise from an employee's use of an e-bike simply because the e-bike is not a "car" for FBT purposes.

What about other "benefit" categories?

Under these arrangements, a property fringe benefit will not arise from an employee's use of an e-bike as the ownership of the bike is retained by the bike company. In other words, no property has been received by the employee.

The benefit falls within the "residual benefit" category – which is a "catch-all" for fringe benefits provided. The Tax Office says that the use of the e-bike however will be exempt as long as private use is restricted to travel to and from work, its use is incidental to work duties, or there is minor and infrequent non-work use.

Therefore, there will be no FBT liability to the employer in providing e-bikes in this manner. ■



Understanding limited recourse borrowing arrangements

A self-managed superannuation fund (SMSF), generally speaking, is not able to borrow to acquire assets. The rationale is that superannuation is meant to be a relatively conservative investment vehicle, and borrowing can put the fund at risk.

An example of this risk at work was seen during the global financial crisis (GFC) through margin lending schemes where people borrowed money to invest in shares. When the GFC hit, people not only lost the value of their initial borrowings but had to make up for the loss in value of the shares they had purchased. This had a severe effect on a lot of people's finances.

Given that the market operates in cycles, there is every chance you will see a number of market downturns in your lifetime. If you borrow at the wrong time it can be devastating.

Prohibition on borrowing

Superannuation law formally prohibits a superannuation fund, including an SMSF, from borrowing or maintaining a borrowing. There is however a limited exception that allows trustees to borrow money through a "limited recourse borrowing arrangement" (LRBA).

LRBAs are subject to the certain conditions. These are:

- the borrowed money is used to buy a "single asset" that is held on trust so that the trustee of the SMSF receives the beneficial interest and right to legal ownership of the asset (or any replacement asset) that occurs after the loan is repaid
- the lender's recourse (what they can claim against you on default) is limited to the rights relating to that single asset — that is, they can't get access to other assets in the fund to make up a shortfall (hence the name "limited recourse"), and
- the asset (or its replacement) must be one that is permitted by certain super rules.

Other requirements

The relevant investment must not only be allowed by the super rules but also by the fund's trust deed and investment strategy.

Also the borrowed money can only be used to buy one asset per borrowing arrangement, with the bank or lender only able to claim against that asset in case of default. Even though the lender is only able to use the asset bought to repay outstanding money in the loan and not the other assets of the fund, most lenders will require some kind of personal surety outside of your super assets before they will lend you the money.

When you use an LRBA, you can acquire what is known as a "single acquirable asset" (though this can be a bundle of shares or units — you don't need a separate LRBA for each share you buy, but these need to be of the same type and in the same entity). You can also use the money borrowed to pay for costs in connection with the borrowing and costs of acquiring the asset (such as stamp duty).

Borrowings cannot be used to refinance an existing super fund property or improve or change an existing property held within the super fund — that is, an asset held by the fund before the LRBA was entered into.

Repairs, maintenance and improvements

You can also use part of the money borrowed to make repairs to the asset or maintain it in an income producing form. What you cannot use borrowings for is to make "improvements" to the asset.



If unsure, check with this office.

So what is a "repair"?

A "repair" in relation to an LRBA relates to fixing or making-good defects in or damage to the asset by replacing the broken part or fixing the existing part so that the asset operates as before. An example could be if you had a house and find that a leaking tap needs fixing by a plumber. This would generally be seen as a repair.

"Maintaining" or "improving"

"Maintaining" is any work done to prevent future defects, damage or deterioration of the asset, or in anticipation of having to do so. An example would be painting the walls of a house.

Maintenance and repairs don't tend to alter the asset in any way; they just keep it going as it should. An improvement on the other hand is something that fundamentally changes the nature of the investment asset.

For example, say as before a house's plumbing needed fixing, and as part of that a new hot water service was required. As the same hot water system that was used before is no longer manufactured, you buy a new, more modern hot water system.

While this may be an improvement to the house, the asset as a whole hasn't been changed fundamentally. On the other hand if you build a substantial extension to the house, such as a second level, this has drastically changed the asset's value and the nature of the house. This is an improvement, and it will result in contravention of the law.

Issues to consider before getting into an LRBA

While LRBAs can be used to purchase any permitted asset, this structure is particularly attractive to those who want to enter into property investment as part of their fund investment strategy.

But like any investment, just because you can does not always mean it is a good idea. An LRBA is a complex arrangement that could cost a lot of money to set up, so it shouldn't be entered into lightly. You need to ask yourself if this is the best way to bring a property into your SMSF portfolio, and you should research the alternatives.

Consider also that if you are purchasing a property through an LRBA that you are committing a significant amount of the fund's resources to a single investment asset. This may be fine, depending on your circumstances, but can also not be good if you want to diversify.

Also consider, for example, that if the property remains untenanted for a period of time you are losing money on the rental returns (while still having to repay the lender).

Also understand that the lender is not likely to allow you to borrow the full amount for the investment. Many lenders will only lend 50% to 60% (though some may go as high as 80%), so this will mean that you need existing funds in your SMSF to pay for the deposit. ■

TAX OFFICE SCRUTINISES LRBAs

LRBAs are under the Tax Office's microscope. An expert report recommended that LRBAs should be scrapped, however the Turnbull government has not implemented such advice. As a compromise, it has publically stated that LRBAs will be under a three-year review. So make sure you seek advice if your investment strategy directs you down this path. The LRBA radar camera is out, so stay within the limits.



Fly-in, fly-out? No more zone tax offset

In the 2015-16 federal budget, the government announced that it will exclude "fly-in-fly-out" and "drive-in-drive-out" workers from claiming the zone tax offset (ZTO) where their normal residence is not within a "zone".

The measure was not passed by Parliament until late in 2015, but it is now law and is effective from July 1, 2015. Anyone who may have looked at making a claim under the ZTO next tax time may need to review their eligibility – we can assist with this.

Why has the offset changed?

Until recently, to be eligible for the ZTO a taxpayer must have resided or worked in a specified remote area for more than 183 days in an income year.

But according to the government, it was estimated that around 20% of all claimants did not actually live full-time in the zones, and so did not face the same challenges of remote living that the ZTO was designed to address — such as the isolation, uncongenial climate and high cost of living associated with living in identified locations.

Still available

The offset will still be available to taxpayers who have taken up genuine residence within prescribed zones. The Tax Office said that existing instructions will still apply to work out how much you can claim. And to explain how the new regime will work, some examples from the Tax Office have been adapted below.

Examples

Adelaide to Alice

Andy is an engineer who lives in Adelaide. He flies to Alice Springs for 12 day shifts at an engineering firm and then travels back to Adelaide for his days off (which vary between four and eight days in a row). As Andy does not have his usual place of residence within a prescribed zone, even though he is in Alice Springs for 183 days or more, he is unable to claim the ZTO.

Darwin to WA

Jay is also an engineer but lives in Darwin (located within "zone A") and travels to Kununurra in Western Australia (located in a zone A special area) where he is employed in the mining industry. In his usual shift, Jay drives to Kununurra, works 14 days at the mine, and drives back to Darwin where he remains for 16 days. Jay is still able to claim the ZTO as his usual place of residence is in Darwin, but he cannot access the special area zone A offset.

An alternative concession?

Taxpayers who are required to live away from their usual place of residence because of employment duties might be eligible for the "living away from home allowance" (ask us for more information). ■

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