

# *ATO practical compliance guideline - Private use of exempt car and residual benefits*

12 July 2018

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## *In brief*

On 11 July 2018, the Australian Taxation Office (ATO) released Practical Compliance Guideline PCG 2018/3 *Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles (PCG 2018/3)*.

This Practical Compliance Guideline (PCG) has been updated from the previously released draft PCG 2017/D14. It allows taxpayers to apply a practical compliance approach in order to determine the private use of an eligible exempt car or residual benefit for fringe benefits tax (FBT) purposes.

Key observations of the PCG include:

- The ATO has updated the criteria in the PCG which assists taxpayers to determine when the private use of an exempt vehicle is considered minor, infrequent and irregular
- Employers that apply the practical compliance approach are eligible for reduced record keeping requirements
- The ATO has advised that where the guideline is relied on, it will not devote compliance resources to review the car-related exemptions of the employer
- The practical compliance approach outlined in PCG 2018/3 will apply from the 2019 FBT year
- The practical compliance approach outlined in draft PCG 2017/D14 continues to apply for employers that relied on the draft PCG in respect of the 2018 FBT year.

## *In detail*

Broadly, minor, infrequent and irregular private travel by an employee in an exempt vehicle will be exempt from FBT. Exempt vehicles include some single cab and dual cab utes, panel vans and some four-wheel drive vehicles.

In December 2017, to assist taxpayers with the compliance burden of assessing whether employee travel in exempt vehicles is minor, infrequent and irregular, the ATO issued a draft practical compliance approach in PCG 2017/D4.

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The ATO undertook consultation on that draft practical compliance approach, which has now been updated and finalised in PCG 2018/3. PCG 2018/3 will be effective for the 2019 and later FBT years. For those employers who may have relied on the draft approach, PCG 2017/D14 continues to apply in respect of the 2018 FBT year.

### ***Practical compliance approach***

PCG 2018/3 provides an updated approach that employers may elect to apply to exempt private travel in exempt vehicles, if they meet the following criteria:

- a) The business provides an eligible vehicle to a current employee
- b) The vehicle is provided to the employee for business use to perform their work duties
- c) The vehicle had a GST-inclusive value less than the luxury car tax threshold at the time the vehicle was acquired
- d) 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
- e) The business has a policy in place that limits private use of the vehicle and obtains assurance from the employee that their use is limited to use as outlined in (f) and (g)
- f) The employee uses the vehicle to travel between their home and their place of work and any diversion adds no more than two kilometres to the ordinary length of that trip, and
- g) For journeys undertaken for a wholly private purpose (other than travel between home and place of work), the employee does not use the vehicle to travel
  - i. More than 1,000 kilometres in total, and
  - ii. A return journey that exceeds 200 kilometres.

The key differences between the final practical compliance approach in PCG 2018/3 and in its predecessor draft (PCG 2017/D14) are:

- the removal of the requirement that exempt vehicles have no non-business accessories
- the total kilometres in a FBT year that an employee can undertake for a wholly private purpose has increased from 750 kilometres to 1,000 kilometres, and
- to use the practical compliance approach, employers still require a policy to be in place that limits the private use of exempt vehicles, however the requirement to sufficiently monitor and enforce the policy has been replaced by a requirement to obtain assurance from employees that private use is limited.

PCG 2018/3 introduces a new requirement whereby employers must obtain assurance from their employees that the private use of any exempt vehicles is limited to the prescribed limits in the guidelines. When obtaining such assurances, employers must be satisfied (on reasonable grounds) that the private use has been limited in accordance with the guidelines.

### ***The takeaway***

PCG 2018/3 provides increased certainty and transparency for employers that claim FBT exemptions for minor, infrequent and irregular private use of exempt vehicles by employees.

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The updates to the practical compliance approach in PCG 2018/3 will allow more taxpayers to benefit from the reduced record keeping and reduced audit risk that the PCG offers. We recommend that if you have exempt vehicles, consider if you are eligible to apply the practical compliance approach.

Alternatively, the release of PCG 2018/3 may be an opportunity to review your vehicle policies to align with the ATO's guidance in PCG 2018/3 on minor, infrequent and irregular travel.

Employers may also want to update their FBT processes and procedures to ensure assurances are obtained by employees where relevant.

Employers who choose not to rely on PCG 2018/3, or who do not meet the criteria outlined above, can rely on the relevant provisions of the FBT legislation to determine accessibility of the car-related exemptions for cars and residual benefits.

### ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact:

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