

NEWSFLASH BOOKLET

Visit us at www.bantacs.com.au

BAN TACS **Accountants Pty Ltd**

BAN TACS
Accountants
Pty Ltd is a
CPA Practice



Queensland		New South Wales		Victoria	
Gold Coast	PNA	Kiama	NIA	Fitzroy	CPA
Level 5, Seabank Building Marine Parade Southport Qld 4215		3/114 Terralong Street, Kiama NSW 2533		151 St Georges Road, Fitzroy North VIC 3068	
Mail to: 98 High St, Tenterfield NSW 2372 Phone: (02) 6736 5383 Fax: (02) 6736 5655 E-mail: goldcoast@bantacs.com.au		Mail to: PO Box 5062 Nowra DC NSW 2541 Phone: (02) 4447 8686 Fax: (02) 4447 8169 Email: kiama@bantacs.com.au		Mail to: PO Box 8152 Newton Vic 3220 Phone: (03) 5222 8489 Fax: (03) 5222 8489 Email: fitzroy@bantacs.com.au	
Ningi	CPA	Nowra	NIA	Geelong	CPA
Shop 17A 1224 Bribie Island Rd, Ningi Qld 4511		93 BTU Road, Nowra Hill NSW 2540		7 Westcott Street, Newtown Victoria 3220	
Mail to: Location Phone: (07) 5497 6777 Fax: (07) 5497 6699 E-mail: ningi@bantacs.com.au		Mail to: PO Box 5062 Nowra DC NSW 2541 Phone: (02) 4447 8686 Fax: (02) 4447 8169 Email: nowra@bantacs.com.au		Mail to: PO Box 8152 Newton Vic 3220 Phone: (03) 5222 8489 Fax: (03) 5222 8489 E-mail: geelong@bantacs.com.au	
Stanthorpe	PNA	Southern Highlands (Moss Vale)	NIA	Highett	CPA
37B Maryland Street, Stanthorpe Qld 4380		Suite 2, No.2 Arthur Street, Moss Vale NSW 2577		1/487 Highett Road, Highett VIC 3190	
Mail to: 98 High St, Tenterfield NSW 2372 Phone: (07) 4681 4288 Fax: (02) 4681 4028 E-mail: stanthorpe@bantacs.com.au		Mail to: PO Box 5062 Nowra DC NSW 2541 Phone: (02) 4869 4888 E-mail: mossvale@bantacs.com.au		Mail to: PO Box 8152 Newton Vic 3220 Phone: (03) 5222 8489 Fax: (03) 5222 8489 Email: highett@bantacs.com.au	
Sunshine Coast	CPA	Tenterfield	PNA		
1 st Floor, Cnr The Esplanade & Second Ave, Cotton Tree Q 4558		98 High Street, Tenterfield NSW 2372			
Mail to: PO Box 465, Cotton Tree Q 4558 Phone: (07) 5443 8004 Fax: (07) 5479 2202 E-mail: admin@bantacs.com.au		Mail to: Location Phone: (02) 6736 5383 Fax: (02) 6736 5655 E-mail: tenterfield@bantacs.com.au			

Liability limited by a scheme approved under Professional Standards Legislation

CLAIMING A MOTOR VEHICLE

Important – This booklet is simply a collection of Newsflash articles relevant to claiming a motor vehicle. The articles are transferred from Newsflash into this booklet so it is best read from the back page forwards to ensure you are reading the latest article on the topic first. Note that the information contained in this booklet is not updated regularly so it is important that you seek professional advice before acting on it.

CONTENTS

MOTOR VEHICLE EXPENSES & SUBSTANTIATION	3
EXEMPT VEHICLES:	3
METHODS OF SUBSTANTIATION:	3
AT EACH ENTRY:	4
IN EACH LOG BOOK:	4
PRACTICAL EXAMPLES OF DIFFERENT METHODS:	4
WRITTEN EVIDENCE:	5
ODOMETER RECORDS:	5
CHANGING CARS:	5
WHEN TO BEGIN A NEW LOG BOOK:	6
APPLICATION:	6
WHEN A CLAIM CAN BE MADE FOR A MOTOR VEHICLE EXPENSE	6
CLAIMABLE WORK RELATED TRAVEL	6
TAX DEDUCTIBLE WORK RELATED TRAVEL FALLS INTO THE FOLLOWING CATEGORIES:	7
<i>Itinerant</i>	7
<i>Travel After You Have Started Work</i>	7
<i>Abnormal Workplace</i>	7
<i>Home a Based of Operations</i>	7
<i>Bulky Equipment</i>	7
<i>Transporting Students, Patients etc</i>	7
<i>Work Related Tasks on the Way to or From Work</i>	7
<i>Casuals</i>	8
WHEN CAN REAL ESTATE AGENTS CLAIM THEIR CAR EXPENSES	8
DOUBLE DIPPING A MOTOR VEHICLE CLAIM	8
DOING THE DOUBLE DIP	9
A WIN FOR MEAT WORKERS' CAR EXPENSES	9
USEFUL WEB SITE FOR KILOMETRES TRAVELLED	10
CLAIMING YOUR CAR TO VISIT YOUR ACCOUNTANT	10
UPDATE ON WHICH "UTES" DON'T NEED LOG BOOKS	10
LOG BOOK DETAIL	11
CLAIMING YOUR MOTOR VEHICLE	11
2008 KILOMETRE RATES	11
KILOMETRE RATES FOR 2009 TAX RETURNS	11
HAVING YOUR 50% INVESTMENT ALLOWANCE & LEASING IT TOO	11
SAVING TAX ON YOUR INVESTMENT PROPERTY – THE BOOK	12
ASK BAN TACS	12
BACK ISSUES & BOOKLETS	12

Motor vehicle expenses & substantiation

This is a summary of the Motor Vehicle Substantiation Bill of 1994. Areas of the bill that are not relevant to the average taxpayer have been omitted. Accordingly, it should be treated only as a basic guide to build on when you consult your accountant. These notes do not apply if a company owns the motor vehicle, in which case the Fringe Benefits Act applies.

Exempt Vehicles:

To claim a deduction for the costs associated with the following vehicles, it is necessary only to keep a “record” of expenses:

- a) A taxi or a vehicle designed principally to carry a load of less than one tonne i.e. a utility, panel van or Hiace van with only the front seats and some dual cabs, provided that vehicle is used only for business travel, travel to and from work and buying lunch etc. The vehicle would still be considered only used for business if the private use is minor and irregular.
- b) Motor Cycles, Earthmoving equipment and Trucks designed to carry a load of more than 1 tonne.
- c) Motor vehicles used as trading stock or used for hire or cars you hire.
- d) Motor vehicles to which fringe benefits tax applies. Note there are other substantiation requirements in the Fringe Benefits Act that apply to these vehicles.

Note if you borrow a car (i.e. use a car that is in a friend’s name) you are not entitled to use the following methods of substantiation but are still required to prove your claim. Spouses can make a declaration of joint ownership to both own a car that is registered only in the name of one spouse. You must own or lease the car to be able to use the following methods. Owning a car includes hire purchase agreements.

Methods of Substantiation:

There are 4 methods of substantiation available:

- 1) The flat 12% of the cost of the motor vehicle or market value when leased method which is available only to motor vehicles that travel more than 5,000 kilometres for business that year. Note – consult your accountant if the vehicle was more expensive than the average family car.
- 2) Claim a deduction for one third of the motor vehicle’s expenses. The car must have travelled more than 5,000 kilometres for business that year. You will need odometer records and written evidence of all expenses.
- 3) If the motor vehicle travels less than 5,000 kilometres for business you may choose to use the cents per kilometre method. This method is also available for motor vehicles that travel more than 5,000 kilometres for business provided you reduce the claim to 5,000 kilometres only. You are required to keep a “detailed reasonable estimate” i.e. if you do the same number of kilometres per week, keep a record for one week and multiply by the number of weeks. If travel is irregular a list or diary entry of kilometres travelled is sufficient. Detailed means you cannot pull a number out of your head for the full year. According to TD93/177 it is the distance travelled by the taxpayer’s car not the taxpayer that is relevant in calculating the kilometres travelled and each owner of the car is entitled to 5,000 kilometres. This means that if a car is owned jointly and both parties are travelling in the car together then you are still entitled to claim only up to 5,000 kilometres combined. On the other hand, if the car is owned jointly each owner is entitled to claim up to 5,000 kilometres each for business travel as an individual. For example, a husband and wife may own 2 cars and both cars are in joint names. The husband could use car one for 6 months and clock up 5,000 kilometres then swap with his wife and use car two for 6 months to clock up another 5,000 kilometres. The wife could do the same with the cars reversed. As a result, they would both be entitled to claim 10,000 kilometres, 5,000 kilometres for each car they own. If you change cars during the year, you can claim 5,000 kilometres for each car. For the 96/97 year the cents per kilometre are: up to 1600cc 47c, 1601-2600cc 53.1c and over 2600cc 53.5c.
- 4) The log book method requires written evidence for all expenses and odometer records to be kept each year (refer definitions below). You may use the log book method if the car travels less than 5,000 kilometres for business but it is unlikely that this method will give you the best deduction.

Log books are required to be kept at least every 5 years. The log book is to be kept for 12 continuous weeks (or the period you own the car if less than 12 weeks). If you have more than one car using the log book method a log book must be kept for each car at the same time. The log book should include the following:

At each entry:

- a) The date the journey began and the date it ended or for each day if journey longer than a day.
- b) The odometer reading at the start and end of the journey.
- c) The number of kilometres the car travelled on the journey.
- d) The reason for the journey, a pedantic auditor may require the destination (MT2026 Archived).

In each log book:

- a) The period the log book begins and ends.
- b) The odometer readings at the start and end of the log book period.
- c) The total kilometres travelled during the log book period.
- d) The business kilometres.
- e) The percentage of total kilometres that were business during the period.

Note – the actual percentage applied to the motor vehicle expenses is not necessarily that calculated in the log book because you are also required to take into account any other records including the odometer readings for that year, variations in the pattern of use and changes in the number of cars you own.

Practical Examples of Different Methods:

Car 1 does a total of 30,000 kilometres, cost \$25,000 two years ago and has a 3 litre engine; the total expenses are as follows:

Insurance and Registration	\$800
Fuel	3,300
Repairs	1,000
Depreciation (15% Prime)	3,750
Total Expenses	8,850

Method	22,000 Business Kilometres	8,000 Business Kilometres
12% of Cost to You	\$3,000	\$3,000
One Third of all Expenses	2,950	2,950
Reduce Claim to 5,000km	2,810	2,810
Log Book	6,490	2,360

If car 1 was under finance there could be another \$2,000 interest expense which would bring the total expenses to \$10,850. If the car was leased the depreciation and interest claimed here would be similar to the lease payments. This would change the deduction as follows:

Method	22,000 Business Kilometres	8,000 Business Kilometres
12% of Cost to You	\$3,000	\$3,000
One Third of All Expenses	3,617	3,617
Reduce Claim to 5,000km	2,810	2,810
Log Book	7,957	2,893

If car 1 did a total of 15,000km only, but was under finance as above the total expenses would be reduced by half the fuel to \$9,200. Changing the deduction for 8,000 kilometres business as follows:

One Third of All Expenses	3,067
Log Book Method	4,907

Car 2 does a total of 30,000 kilometres, cost \$25,000 7 years ago and has a 3 litre engine. Accordingly, the car is no longer under finance and it has been fully depreciated so the expenses would be as follows:

Insurance and Registration	\$800
Fuel	3,300
Repairs	<u>1,000</u>
	5,100

Method	22,000 Business Kilometres	8,000 Business Kilometres
12% of Cost to You	\$3,000	\$3,000
One Third of All Expenses	1,700	1,700
Reduce Claim to 5,000km	2,810	2,810
Log Book	3,740	1,360

Note that if Car 2 cost only \$20,000 and travelled 8,000 kilometres for business, a better deduction would be gained by reducing the claim to 5,000 kilometres.

DON'T FORGET TO TAKE YOUR SPEEDO READING EACH 30TH JUNE

Written evidence:

Both the log book and one third of all expenses methods require “written evidence” of all expenses except fuel which can be calculated based on the amount of fuel used per kilometre. Note – if you calculate your fuel this way for the one third of all expenses method, you are required to keep odometer records as defined below. Written evidence must be a document from the supplier setting out the following:

- a) Name of the supplier
- b) Amount of the expense
- c) Description of goods or services
- d) Date of incurring the expense
- e) Date of document

Note - if the document does not show the date the expense was incurred, you can use a bank statement to support the claim. You may write the description of the goods or services on the document yourself. If the Commissioner considers it unreasonable to expect you to have written evidence (i.e. bridge tolls), you can just keep a record regardless of the size of the expense. If the expenses are for \$10 or less you may just keep a record of these expenses providing the total does not exceed \$200.

Odometer Records:

Each year a record must be made for each car under the log book and one third of expenses methods containing the following:

- a) The car’s odometer readings at the start and end of the period.
- b) Any nomination regarding a replacement car. If this is the case, Items a, c & d should be kept for both cars.
- c) The car’s make, model and registration number.
- d) The cubic capacity of the engine.

Changing Cars:

If you change cars during the year and the car would have done more than 5,000 kilometres for business if it had been used for a full 12 months, you may use the methods that require more than 5,000 kilometres business use. Careful, you may find you would be better off claiming the kilometre rate of 5,000 kilometres for each car. If you own a car for only part of the year and choose to use the 12% of cost method, you must pro rata the 12% over the period of ownership. If you are using the log book method and the new car will be doing the same travelling as the old, you can nominate to use the old log book as the log book for the new car, subject to the 5-year limit. Note - you must record the closing odometer reading on the old car and the opening odometer reading on the new.

When to Begin a New Log Book:

Log books must be renewed for a continuous 12 week period at least every 5 years. Odometer records are required every year. You must keep a log book for an income year if, during that year, you get one or more additional cars for which you want to use the log book method for that year. If the business percentage increases you should keep another log book to support a bigger deduction.

Application:

The above applies to the 94/95 and following financial years. The taxpayer has the option of applying the old rules to the 94/95 financial year if he or she wishes. All records should be retained for at least 5 years.

When a claim can be made for a motor vehicle expense

Wage earners can claim their motor vehicle expenses when they meet the substantiation requirements and they travel as follows:

1) Bulky Equipment – Home to work travel is claimable if there is no safe storage at work and as a result you transport bulky equipment between home and work. Safe storage is defined as similar to your own personal locker. Therefore a container on a building site to which all and sundry has a key is not safe storage. Case S29 prescribed more than 20kg was bulky. Taxpack gives the example of a ladder and drum kit not because they weigh more than 20kg but because they fulfill the difficulty to carry side of bulky.

2) Abnormal workplace, this is defined in Taxpack at D1 as:

From your normal workplace to an alternative workplace – for example, a client's premises – while still on duty and back to your normal workplace or directly home. From your home to an alternative workplace for work purposes and then to your normal workplace or directly home.

This would include being sent to another branch or shop to relieve providing you were not employed predominantly to relieve. This covers seminars and visits to customers etc. It also includes work related tasks performed on the way home or to work but, note MT 2027, the task cannot be insignificant such as dropping off the mail at the post office. Though if you drop off the mail on the way home you can claim for the distance off the track this takes you. Also refer TD 96/42 and TD 96/43.

3) Between Jobs - note this includes travel from home when home is the base of operations or work begins there. Home can be considered a base of employment if employment related duties have begun before leaving there, providing those employment related duties did not begin merely for the convenience of the taxpayer. Taxpack provides the example of a computer programmer contacted at home to fix a problem over the internet. When this wasn't possible, she then proceeded to work, hence the travel was deductible. Another example is a doctor contacted at home regarding a hospital emergency. He gave advice as to treatment and contacted other staff before leaving for the hospital so the trip to the hospital was deductible because he had already begun work when he left home.

4) Itinerant work refer TR95/34 which is available from the ATO web site or our office.

For example more than one workplace each day on most days.

Note: The above can also apply to the self-employed possibly in addition to other claims. If claiming for a car on the kilometre basis the limit is 5,000 kilometres per car, not per taxpayer.

Claimable work related travel

To claim up to 5,000kms per car the kilometre method can be used which does not require receipts or a log book but simply a detailed reasonable estimate. So if you travel to similar areas each month a record of the purpose of each journey and the kilometres travelled in the period multiplied to cover the whole year is a sufficient record. Also keep a record of one off trips. For the 2003 year you will be entitled to 50 cents per kilometre if your car has a cubic capacity of 1.6 litres or less. Over 1.6 litres up to 2.6 litres 60 cents. Over 2.6 litres is 61 cents per kilometre.

If you do go over 5,000 kilometres a log book may be beneficial but usually a better claim is available by rotating cars if you have more than one car. For example you are a member of a couple and use you spouse's car sometimes. You can claim up to 5,000kms per car under the kilometre method. You must be

the owner of the car to claim it under the kilometre method. If the car is only in your spouse's name you can make a declaration of joint ownership. If the car is in your parent's name but you pay all the associated costs because it is really your car you are considered the owner of the car.

You cannot claim a deduction for travel between home and your normal place of work unless you carry bulky equipment. A trip from work to home carrying bulky equipment so you can do work at home would not be deductible because you only take them home as a matter of convenience. That is you could finish the job off at work but you would prefer to work at home.

TR 95/34 covers a lot of the circumstances where a car can be claimed as a work related expense. This ruling is available on the ATO web site.

Tax deductible work related travel falls into the following categories:

Itinerant - In FC of T v Wiener 78 ATC 4006; (1978) 8 ATR 335 a teacher was required to teach at a minimum of four different schools each day, and comply with a strict timetable that kept her on the move throughout each of these days. The court found that she was itinerant and therefore able to claim her travel costs from the moment she left home until she returned home. A minimum of two workplaces in one day will class you as itinerant unless one was your normal workplace. If you first go to your normal workplace you can only claim for travel after you reach there.

Travel After You Have Started Work - If you go out from your normal workplace and then return you can claim for that trip but not the trip to and from your home and your normal workplace. Examples of this sort of travel would be meetings at other offices, inspecting branches displays etc. If you go home, rather than back to your work, after these meetings etc you can also claim the trip home.

Abnormal Workplace – Taxpack at item D1 and MT 2027 paragraphs 32 to 35 discuss claiming travel to an abnormal workplace. It is important to note that you must first have a normal workplace to have an abnormal one. You can claim for travel from home to an abnormal workplace and back home or to another workplace or vice versa. In FC of T v Genys (1987) 17 FCR 495; 87 ATC 4875; (1987) 19 ATR 356 the Federal court made it clear that if you are an agency nurse without a normal workplace you cannot make this claim if you only visit one school for the day. For a nurse with a permanent position the abnormal workplace claim would cover travelling to other hospitals for meetings, attending courses, etc. even if they spent the whole day there. In other words the travel was merely home to work travel but because they have a normal workplace and this travel is to an abnormal workplace they are entitled to claim home to work travel. If you regularly travel to one workplace on Monday and Tuesdays and another the rest of the week both these places would be considered your normal workplace so no abnormal workplace claim is available for either place.

Home a Based of Operations – In case W4 a semi retired University Lecturer was allowed a claim for home to work travel because he did not have an office at the University where he could prepare his Lectures so his home was the base where most of his work was performed. This case is very narrowly interpreted by the ATO.

Bulky Equipment – In case S29 it was accepted by the court that equipment weighting more than 20kg was considered bulky. If there is no safe storage at work you may be able to claim a deduction for taking your equipment to and from work. Relief teachers may be able to have a field day with this one. Safe storage means somewhere you can lock up your belongings that other people do not have a key to. It is not sufficient that you take the equipment home for your own convenience it must be out of necessity. Bulky equipment does not have to be heavy it can just be impossible to transport on public transport, for example a ladder or drum kit.

Transporting Students, Patients etc – Whenever you are transporting students in relation to your work the trip is tax deductible including the leg between their home and yours. This is the case even if you are transporting them to your normal place of work. TR 95/14 gives an example of a coach picking up players on his way to his normal school for a Saturday football match. He is entitled to claim the whole trip from when he leaves home to pick up the students

Work Related Tasks on the Way to or From Work - MT 2027 states that the task cannot be insignificant such as dropping off the mail at the post office. Though if you drop off the mail on the way home you can claim for the distance off the track this takes you. Also refer TD 96/42 and TD 96/43 available on the ATO web site. If you perform a significant work related task on the way home you can

claim the whole trip. For example stopping at another office to do some work or have a meeting on the way to work will make the whole trip deductible.

Casuals - In *FC of T v Genys* (1987) 17 FCR 495; 87 ATC 4875; (1987) 19 ATR 356 an agency nurse was not permitted to claim the cost of attending a different hospital each day because it was merely home to work travel. She only went to one hospital each day and as she had no normal workplace she could not claim travel to an abnormal workplace. Casuals can claim their travel to and from work if they attend more than one work site during a day without returning home.

If you have salary packaged the car you use for deductible purposes you cannot claim a deduction for these trips in your income tax return because you are not the owner of the vehicle.

When can real estate agents claim their car expenses

Basically the only trip a Real Estate Agent can't claim for is the trip from home to the office if he or she is not carrying bulky equipment. Bulky equipment would be items that weigh more than 20kg in total or are too bulky and awkward to carry on the train etc. Signs are worth considering here. Further if a Real Estate agent travels from home to an abnormal work place (such as a property he or she has listed for sale) and then on to the office the whole journey from the moment he or she left home is claimable.

Once the Real Estate Agent arrives at work any further travel undertaken for work purposes during the day is tax deductible. In order to claim the trip home from the office, if a property listed for sale is not visited on the way home, the bulky equipment claim mentioned above in regard to home to work travel needs to be considered.

Note with the bulky equipment claim you must have a reason, for carrying the bulky equipment.

Double dipping a motor vehicle claim

I am a great fan of double dipping tax deductions and claiming a deduction for expenses you would have had to incur for private purposes anyway. Wage earners have a lot of opportunities to do this when claiming their car for work. If fully utilised they can claim home to work travel and work travel during the day using the kilometre method to claim up to 62 cents a kilometre for more than 5,000kms if they use both their's and their spouses car. Then they can arrange for their employer to reimburse them, tax free for all their motor vehicle expenses anyway.

Stage 1: Keep a log book on your car determining the business to private use of the vehicle and keep receipts for all expenses relating to the car. If you have a spouse, do this for his or her car as well and endeavour to use the cars equally. You can claim a tax deduction for your car when it is used for travel to and from work if it is to an abnormal workplace, you are carrying bulky equipment or you have more than one workplace in the day. Once you have arrived at work you can claim a deduction for your car for any work related travel during the day.

Stage 2: This stage involves your employer parting with cash so you may have to "salary sacrifice" some of your wages to cover your employer's costs. This is to your advantage as you will end up receiving the money tax free back into your pocket. Having come to this arrangement with your employer you submit to him or her all your car expense documents and a declaration, supported by your log book, stating the percentage the car is used for business purposes. If you have a spouse do this for both cars. Your employer then reimburses you tax free for the expenses and the otherwise deductible rule means your employer does not have to pay FBT on the amount but can claim it as a tax deduction. As this is the reimbursement of actual expenses it does not appear on your group certificate as either an allowance or reportable fringe benefit. GST provides another benefit here in that your employer can claim the GST back on the expenses so should only reduce your salary by 10/11ths of the amount claimed.

Stage 3: The fact that your employer has reimbursed you for the deductible portion of all your motor vehicle expenses does not prevent you from claiming for the motor vehicle/s on the kilometre basis in your tax return as well. Accordingly, you can still claim your work related travel in the car, up to 5,000kms per car. If your car has an engine capacity of more than 2.6 litres this could mean a further tax deduction of up to \$3,100 per car.

Note you cannot double dip if your employer reimburses you on a kilometre basis rather than for the actual expenses you have incurred. You cannot utilise this arrangement if the vehicle you are driving is provided by your employer including via a novated lease.

If you can't BAN TACS at least minimise it legally. Kisses and hugs to the ATO.

Doing the double dip

We are coming up to the silly season when people start to spend unreasonable amounts of money just for the sake of avoiding paying tax on it. This is all very well if you are buying something that you would buy anyway. But if you wouldn't normally spend your money in this way you are giving up the whole dollar to, at the very most, receive 48.5 cents back from the ATO. Under the new tax scales you will have to earn over \$150,000 this year before you even qualify for the 48.5% if your taxable income ends up under \$150,000 you may only get 43.5% or 31.5% back.

I much prefer doing the double dip. This is where you claim a tax deduction for an expense but you are not actually out of pocket because your employer has reimbursed you for it. As these expenses are tax deductible to you, your employer does not have to pay FBT on the reimbursement. This secret plan and clever trick does not work for all expenses, only items that are claimed under arbitrary methods. For example if you own a car, keep a log book of your business use and ask your employer to reimburse you for the business use portion of the running expenses of the car. Your employer does not have to pay FBT nor deduct PAYG tax from the money he or she pays you. You do not have to include this money in your tax return, not even as a reportable fringe benefit. So effectively you have that portion of your car expenses paid out of tax free dollars. Then you can use the kilometre method to claim the very same business kilometres in your personal tax return, up to 5,000kms per car. This could give you a further tax deduction of over \$3,000 despite the fact that you have been reimbursed for the cost of travelling those kilometres.

This trick works well with laptops and the ATO have even issued a public ruling approving this one. Once a year your employer is allowed to provide you with a laptop as an exempt fringe benefit. If you actually purchase the laptop yourself and ask your employer to reimburse you the full amount, your employer will be entitled to claim the GST back and get a full deduction for the price. This does not stop you keeping a diary on the business use of the laptop and claiming depreciation on it in your personal tax return. This also works for tools of trade.

A win for meat workers' car expenses

The ATO challenged a claim we made for a meat worker's car expenses to travel to and from work. The ATO normally considers travel to and from work to be private in nature. Our argument is that the trip was deductible because the client was required to carry bulky equipment to and from work. We have just received notification that the ATO accepts our argument. The relevant points that made our client's claim successful were:

- 1) There was no safe storage at work i.e. the employer did not provide personal lockers for tools
- 2) The client carried a set of knives, sharpening stone, mesh apron, mesh gloves, protective boots, hardhat, knife pouch and chain. These weighed between 25 to 30 kilograms and required a bag 100cm x 40cm x 40cm in which to carry them.
- 3) The client owned the tools and took them home each night for no other purpose than safe keeping.
- 4) These tools were used each day in the clients work.

Initially the ATO was of the opinion a meat worker could not possibly have tools of a bulky nature. But occupation is completely irrelevant it is simply a question of size and necessity.

The moral of the story is to make sure you have a mesh apron because they are worth their weight in tax deductions. These claims are very lucrative as you can claim over 60 cents per kilometre up to 5,000 kilometres per car. It really adds up over the year.

Useful Web Site For Kilometres Travelled

If you are struggling to prepare a detailed reasonable estimate of the kilometres you have travelled for work purposes because you forgot to set the trip metre, go www.whereis.com which will give you the distance between places via the route you elect. The web site can also advise you of the best route to take and provide you with a map for anywhere you intend to travel.

This should be particularly useful for our fruit picking clients struggling to fill in their maps of Australia for us.

Claiming your Car to visit your Accountant

Don't forget to claim for your travel to your tax agent as part of the costs of meeting your tax obligations. If you are using the kilometre method you would normally be limited to 5,000kms per car per owner for the year to cover working related and other income producing use of the care such as visiting a rental property. But travel to your tax agent doesn't contribute to the 5,000 km limit in fact you can use the kilometre rates of 70 cents a kilometre for cars over 2.6 litre, 69 cents a kilometre for cars under 2.6 but over 1.6 litre and 58 cents a kilometre for cars under 1.6 litre, for unlimited kilometres in regard to travel to see your tax agent.

Update on which "Utes" don't need log books

Some Utes and Panel Vans are not subject the substantiation rules. For example if you or your employees drive a "ute" you own and it is used primarily to drive to and from work and other work related journeys then you can claim the associated expenses as a tax deduction without having to keep a log book.

This article looks into what is actually a "ute" as we commonly refer to it. There are two sections of the Act that consider the vehicles that qualify. A "Ute" would qualify if meets the requirements of a non car according to the act. Non cars need to be designed to carry a load of one tonne or more. So I doubt that the old Hyundai mighty boy (with barely space for a brief case in the load compartment) would qualify. All is not lost a vehicle that is designed to carry a load of less than one tonne can qualify if the principal purpose of its design is not to carry passengers. Still not sure this would help the mighty boy, but it does help conventional utes and panel vans and some dual cabs.

The ATO has just recently updated MT 2024 which has a list of dual cab vehicles it considers will qualify as utes for the purpose of this concession.

To consider whether the vehicle qualifies as not principally designed to carry passengers all depends on the ratio of passenger space to payload space and can be worked out by multiplying the number of people the vehicle is licensed to carry by 68kgs and comparing it with the payload. Calculating the payload is discussed below.

Now a little bit on whether a vehicle is designed to carry a load of one tonne or more. The payload according to MT 2024 is the difference between the gross vehicle mass (GVM as stated on the compliance plate) and the weight of the vehicle with a full tank of fuel, oil and coolant together with the spare wheel, jack etc and any accessories fitted. Note this may not necessarily be the TARE.

If this is all too hard have a look at the list of vehicles in MT 2024. Warning, the ruling lists vehicles that do and do not qualify so make sure you go back through the pages to the heading at the start of the list.

In summary to qualify for the substantiation exemption that applies to a "ute" a vehicle must be:

- 1) Only used to travel for work, to and from work and travel incidental to work i.e. buy lunch. The only exception to this is minor and irregular private travel. And
- 2) The vehicle must be designed to carry a load of 1 tonne or more or be designed principally to carry passengers.

Log Book Detail

The Tax Office has warned that it is finding many log books are not correctly kept. In particular the purpose of the journey does not provide enough detail. They claim that to correctly show the purpose of the journey it must explain why the journey was for business purposes, simply entering the word business in the description is not enough.

This would apply to log books kept by people claiming their own car and to car fringe benefits calculated under the log book method.

Claiming Your Motor Vehicle

Regular readers will be familiar with our tricks on claiming your motor vehicle, using a detailed reasonable estimate and the kilometre method, for home to work travel carrying equipment weighing more than 18kg, if there is no safe storage at work. The claim is limited to 5,000kms per car but you can swap cars with your spouse to claim up to 10,000kms.

There are a couple of traps to avoid. Firstly you can only use the kilometre method on a car. A ute designed to carry a load of more than 1 tonne is not a car. Secondly make sure you also “own” your spouse’s car. If it is only registered in your spouse’s name you need to get him or her to sign a declaration that he or she own it jointly with you.

2008 Kilometre Rates

The ATO has set the cents per kilometre rate, for the 2007/2008 financial year that you are entitled to use for a motor vehicle for which you are claiming 5,000kms or less per car. The rates are based on the car’s engine capacity as follows:

1.6 litre and smaller 58 cents per km

Bigger than 1.6 litre but not bigger than 2.6 litre 69 cents per km

Bigger than 2.6 litre 70 cents per km

Note this amount has not changed since the 2007 financial year, which is quite strange as it has changed every other year as I can remember. According to the ATO the fuel price rise we are hearing about on the TV and seeing at the bowser are simply a figment of your imagination.

Kilometre Rates for 2009 Tax Returns

If you are only claiming 5,000 kilometres for your vehicle you are only required to keep a detailed reasonable estimate of the kilometres you travelled for the year then multiply them by the following rate that applies to you:

Engine Capacity of 1.6 litres or less 63 cents per kilometre

Engine Capacity between 1.601 and 2.6 litres 74 cents per kilometre

Engine Capacity over 2.6 litres 75 cents per kilometre

Note: It is 5,000 kilometres per car, per owner of the car. Much more detail on how to claim a tax deduction for a motor vehicle is available in our Claiming a Motor Vehicle booklet under the freebees section of our web site.

Having Your 50% Investment Allowance & Leasing it Too

Unless the car you lease exceeds the luxury car limit, it is the lease company that is entitled to the investment allowance. In ID 2009/89 the idea of buying the car then a month later selling it to a lease company was addressed.

The ID accepted that the vehicle had been used principally for business (more than 50%) during that month so the purchaser was entitled to the investment allowance and there was no adjustment when the vehicle was sold to the lease company. But note it specifically states that the use of the vehicle once it was leased back must also be taken into account. This may suggest that buying a vehicle and selling it a month later just to qualify for the investment allowance could result in the ATO using Part IVA against you. Nevertheless, it doesn’t appear that anything in the law specifically prohibits this and the ID

argument is based on the words the use by the taxpayer covering both the period before and after the lease. This argument wouldn't apply to the use after one month of a completely new purchaser.

Note ID's are just an expression of the ATO's opinion and not binding on them. If the above was a bit confusing the basic case is buying a vehicle, claiming the investment allowance and then selling it to a lease company is fine providing during all that time it was used more than 50% in your business. Buying a car claiming the investment allowance and selling it on the open market one month later may also be ok but the ATO still has part IVA up its sleeve so you should get a ruling before being this cheeky.

Saving Tax on Your Investment Property – The Book

“Every investment property tax-related question you’ve ever wondered about is answered here and – perhaps more importantly – the ones you didn’t think to ask but should have! For property investors who want to refine their strategy for maximum gain, this resourceful handbook will make a great constant companion.” Eynas Brodie, Editor, Australian Property Investor magazine.

Combining Noel Whittaker's easy reading style with Julia Hartman's mind numbing attention to detail was a major challenge which ran way over schedule but it is finished, printed, and in the book stores. You can also purchase it online by going to: www.bantacs.com.au/property.php. The cost is \$29.95 plus \$5.95 postage – tax deductible of course!

Ask BAN TACS

For \$39.95 you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. For your Accountant, we will include ATO references to support our conclusion. Just go to www.bantacs.com.au and look for the Ask Bantacs link under 'Most Popular' on the home page.

Back Issues & Booklets

To obtain free back issues of the fortnightly BAN TACS Newsflash or any of the following booklets visit our web site at www.bantacs.com.au/publications.php. You can also subscribe to our Newsflash reminder.

Alienation of Personal Services Income
Claim Your Trip Around Australia
Defence Forces [Military]
How Not To Be A Developer
Fringe Benefits Tax
Goods and Services Tax
Key Performance Indicators
Overseas Backpacker Fruit Pickers
Secret Plans and Clever Tricks
Self Managed Superannuation Funds

Buying a Business
Claimable Loans
Death and Taxes
Divorce
Investors
Overseas
Real Estate Agent
Selling a Business
Subcontractors
Wage Earners

Capital Gains Tax
Claiming a Motor Vehicle
Division 35
FBT for PBLs
Miners
Professional Practices
Rental Properties
Small Business
Teachers
Year End Tax Strategies

Disclaimer: Please note in many cases the legislation referred to above has only just passed through parliament. The full effect is not clear yet but it is already necessary to make you aware of the ramifications despite the limited commentary available. On the other side of the coin by the time you read this information it may be out of date. The information is presented in summary form and intended only to draw your attention to issues you should further discuss with your accountant. Please do not act on this information without further consultation. We disclaim any responsibility for actions taken on the above without further advice as to your particular circumstances.