NEWSFLASH BOOKLET

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Claiming A Motor Vehicle

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Important

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. This booklet was last updated on 5th September, 2016

Motor Vehicle Expenses & Substantiation

You cannot claim a tax deduction for a car you have salary sacrificed because it is technically "held" by your employer even if the arrangement is through a novated lease.

Exempt Vehicles:

To claim a deduction for the costs associated with the following vehicles, it is necessary only to keep a "record" of expenses, though it is recommended that in the case of utilities and panel vans that you keep a log book in order to prove that the private use is minor and irregular.

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 2 methods of substantiation available:

1) If the motor vehicle travels less than 5,000 kilometres for tax deductible purposes 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 tax deductible purposes provided you reduce the claim to 5,000 kilometres only. You are entitled to claim 66 cents for each kilometre. 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 TD 93/177 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 you cannot double count the travel but on the other hand each owner of the car is entitled to claim up to 5,000 kilometres individually when they use the car for tax deductible purposes. 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, for example sell your old car and buy a new one, you can claim up to 5,000 kilometres for each car.

2) 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.

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 method 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 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 each car, 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 and you continue to use your current car for tax deductible purposes as well. Obviously, the use of the vehicles will change if the work load is spread over more than one car so the whole situation needs to be re examined.

If the business percentage increases you should keep another log book to support a bigger deduction.

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, that you need for your job, 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. Safe storage means somewhere you can lock up your belongings, that they will fit into and 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. Case S29 prescribed more than 18kg was bulky we think you are very safe if your equipment weighs 27kgs. The ATO use examples of a ladder and drum kit not because they weigh more than 18kg but because they fulfill the difficulty to carry side of bulky. Relief school teachers may be able to have a field day with this one.

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, trade nights 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.

   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.

   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.

   MT 2027 paragraphs 32 to 35 discuss claiming travel to an abnormal workplace. It is important to note that to have an abnormal workplace you must have a normal workplace. If you don't have a normal workplace and you have more than one place of work before you return home then the whole trip could be tax deductible because you are itinerant. Itinerancy is discussed further down.

3) Between Jobs – Section 25-100 ITAA 1997 allows you a deduction for travel between two workplaces providing you engage in work activities at each one and neither of them is your home.

   Home can be considered a base of employment and therefore travel from it to another place of employment is deductible, if employment related duties have begun before leaving home. That is providing those employment related duties did not begin merely for the convenience of the taxpayer.

   For example a computer programmer was 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 before he left home.

TD 96/42 and Payne's case make it very clear that just because you run a business from home doesn't mean travel from home to your day job is tax deductible, though travel from home regarding your business or for a dual purpose such as taking produce to market on the way to your day job would be deductible.

4) 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.

5) Itinerant - refer TR95/34. 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.

6) 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, trade nights, 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.

7) Transporting Students, Patients etc – Whenever you are transporting students, patients etc 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

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.

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.

How To Claim 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 it 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 it soon adds up when you can claim 66 cents a 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.

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 18kg 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.

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 49 cents back from the ATO.

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.

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.

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 client's 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 66 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.

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 Home To Work Travel - Taking Your Esky and PPE To Work

BAN TACS has quite a reputation for banning as much tax as possible through claiming motor vehicle travel costs. In particular home to work travel. Whether you drive to a mine site and stay there for 4 days, the depot to pick up your truck or just drive to work each day this is well worth thinking about.

Now there are other reasons you can claim your motor vehicle as a tax deduction against your income. For example, running errands during the working day, travelling to an abnormal workplace, travel between two jobs or if your work is itinerant.

This article looks at the tax deduction available for carrying bulky equipment from home to work and back again. To qualify as bulky, the equipment must weigh more than 18kgs or be awkward enough that you can't carry it to the car in one trip. It is also important that your employer does not provide you with a locker where you can safely store your equipment under lock and key where no one else has access.

Of course there is the requirement that you need the equipment to do your job but don't let this narrow your view to just tools. On our remote workers, miners and tradies page http://www.bantacs.com.au/topics/remote-workers/ we have a handy spreadsheet that allows you to calculate the weight of some common items. Consider your personal protective equipment. It would be prudent to take a spare set of steel caps with you each day in case the pair you are wearing get wet.

In TR 95/18 it is accepted that truck drivers who are away from home overnight can claim for more personal items like a fridge and sleeping bag. So think about the stuff you need because of your job but don't necessarily use while on the job. For example a doona, pillows, towels and food. Your esky or steel caps on their own might not make18kgs but combined with other stuff you need it may help you reach it.

Even the ATO advertise this deduction. Go to https://www.ato.gov.au/printfriendly.aspx?url=/individuals/income-and-deductions/in-detail/deductions-for-specific-industries-and-occupations/truck-drivers---claiming-work-related-expenses/
scroll down the page to:

Claiming work-related car expenses

Transporting bulky tools and equipment

You can claim a deduction for the cost of transporting bulky tools and equipment between home and work if:

- you need to use them at work
- there is no secure area for storing them at your workplace.

Example 2

Amy does an intercity haul. She collects her loaded truck in the evening and travels overnight to another city which she reaches before her mandatory long break. She unhitches the trailer, takes the truck to a place where she can sleep in it, and then returns to collect the reloaded trailer for the return trip that night.

Amy takes a portable fridge, two screwdrivers, food for the road, a sleeping bag, a blanket, a change of clothing, toiletry gear and a GPS with her. She keeps these items at home and transports them to and from her depot because there is no storage at the depot. The items she uses for work are considered bulky.

Amy is entitled to a deduction for her costs of travelling between her home and depot.

Claiming Your Motor Vehicle

Regular readers will be familiar with our information 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.

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.

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 not to carry passengers.

Utes, Panel Vans And Claiming a 100% Tax Deduction

If a vehicle is designed primarily to carry goods then its use for home to work travel is not considered private use. Basically you can claim 100% of its expenses as a cost of earning income providing the private use is incidental to earning income ie getting lunch and any real private use is only minor, infrequent and irregular.

Readers who travel long distances to work might think it is worth buying a ute just to drive to and from work. Nice thought but there is devil in the detail, the wording of the Act is:

> "to go between your residence and a place where you use the car in the course of producing your assessable income"

This means that if all you do once you get to work is park it and walk into your office for the day you will not qualify for this concession.

Regarding the minor, infrequent and irregular private use notice the word "and". So it might only be a few kilometres off the track to pick your children up from school on the way home but if that is something you do regularly it will disqualify you from this concession.

The onus of proof that the vehicle is used almost exclusively for work use or travel between home and work rests with you. So it is worth keeping a log book anyway to make sure this can never be challenged.

An ATO auditor once told me of travelling to northern Queensland to audit some tradies. Before starting the audits and making himself known in the community he spent an anonymous Saturday at the local pub jotting down all the number plates for the utes going past with groceries in the back.

Vehicles Designed To Carry A Load Of More Than 1 Tonne

The kilometre method of substantiation allows car owners to claim a deduction for their income producing travel at the rate of 66 cents a kilometre up to a maximum of 5,000 kilometres per car. The 1997 ITAA defines a car as follows:

> *car* - means a *motor vehicle (except a motor cycle or similar vehicle) designed to carry a load of less than 1 tonne and fewer than 9 passengers.

So if your ute is a 1 tonner it is not a car. Nevertheless, you can still use the kilometre method to claim your vehicle but only if it is predominately used for work purposes which can include home to work travel. Any private use must be incidental to the work use ie getting your lunch. Though minor, infrequent and irregular private use is also permitted. Reference section 28-170 1997 ITAA.

If you have more private use of the one tonner then, while you are not strictly required to do so it is recommended that you keep a log book for 3 months, take a speedo reading each 30th June and keep receipts for all expenses to make sure you qualify for a claim.

If owning a one tonner as opposed to a "car" is a problem for you then look into the fine print. It might be called a one tonner but its legal pay load may be a fraction less.

How To Claim Your Car Using The Log Book Method

To claim your motor vehicle expenses using the log book method you need to keep receipts for the full year, take your speedo reading at 30th June and keep a log book for 3 months every 5 years. How are you going keeping all your fuel receipts? Have they faded?

Fortunately, you can estimate your fuel costs. This is done by filling up your petrol tank and recording the speedo reading. Next time you fill up your tank record the speedo reading, how many litres it took and how much that fill costs. By deducting the speedo reading took on the previous fill from this one you can work out how many kilometres you travelled and how much those kilometres cost you in fuel. Now divide these kilometres into the price you just paid to fill the tank, to find out how much it costs you in fuel per kilometre. By taking your speedo reading, as required by law, every 30th June you will know the total kilometres you have done for the year. You just multiply this by the cents per kilometre cost of fuel that you have just worked out to get your fuel costs for the whole year.

We now have available, for free, on our remote workers, miners and tradies page http://www.bantacs.com.au/topics/remote-workers/ an electronic log book to make this as easy as possible.

Ask BAN TACS

For $79.95 at Ask BAN TACS, www.bantacs.com.au/ask-bantacs.php, you can have your questions regarding Capital Gains Tax, Rental Properties and Work Related Expenses answered. We will include ATO references to support our conclusion. There is also a notice board where some askbantac users have generously allowed their question and answer to be published. Lots of good real life information.

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How to Make Sure Your Next Property Is a Good Investment

- Do you really know how much the property is going to cost you to hold?
- What name should the property be purchased in?
- Will this property fit your investment strategy and goals?
- What does the contract say about GST?
- How does the price compare with similar sales in the area?
- If it is negatively geared, how much capital growth is required before you breakeven?
- Do you know what records you need to keep and how?
- Are your financing arrangements maximising your tax deductions?
- What happens if interest rates rise?

......and the list goes on!
To ensure you don't make a costly mistake with your next purchase make sure you see a BAN TACS Accountant before you sign

Disclaimer: The information is presented in summary form and could be out of date before you read it. It is only 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.