

BULLETIN

Victorian Automobile Dealers Association



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Impacts of COVID-19 lockdowns and restrictions on automotive businesses Fringe Benefits Tax (FBT) obligations and requirements

**** This is not legal , taxation or financial advice ****

The Victorian Automobile Dealers Association (VADA) has received calls from VADA members regarding the impacts of COVID-19 lockdowns and restrictions on automotive businesses Fringe Benefits Tax (FBT) obligations and requirements.

VADA has referred the query to its national body, the Motor Trades Association of Australia (MTAA) who have raised the issue with the Australian Taxation Office (ATO) in pursuit of finding a potential solution . MTAA has sought advice as to whether it may be possible for a business utilising the statutory formula 'switching' to an operating cost model either for part or the whole of the reporting period to address detrimental impacts of COVID-19 restrictions and lockdowns on FBT.

MTAA, through its CEO, Richard Dudley has received the following response from the ATO to the VADA query:

ATO Response:

The ATO has provided the following response to our expressed concerns and potential solutions.

- 'Unfortunately, the ATO cannot accept an approach that relies on using both methods interchangeably through the FBT year for a single car'. Subsection 10(1) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) is clear and explicit in requiring that any election to use the operating cost method covers all of the fringe benefits for a car for the year'.
- 'As such, in order to avail themselves of the guidance in the fact sheet ([afs-car-fbt-covid-19.pdf \(ato.gov.au\)](#)) that accepts certain cars will not have a 'holding period' during COVID-19 lockdowns, your constituents would need to switch to using the operating cost method for those cars for the year. This is still an option available to them, as the election to use a particular method is provided with the FBT return after the end of the FBT year.
- 'The ATO is happy to liaise directly with any constituents who are concerned about their ability to maintain the necessary records to use the operating cost method for the current FBT year.
- 'Some general comments that may be of assistance:
 - As it will be a 'logbook year' for the cars, the employer will need to keep a 12-week logbook to satisfy the requirements of section 10A of the FBTAA. However, for a logbook to satisfy this **requirement it only needs to be commenced before the end of the FBT year (MTAA emphasis)**, so employers still have some time before they need to commence logbooks.
 - Employer's will also need start-year and end-year odometer records for the cars to satisfy this requirement (attained through fuel receipts etc.).

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- They will also need records of the expenditure that is used to calculate the operating costs themselves – generally this includes fuel, insurance, registration, and deemed depreciation.’

Key Points:

- The ATO has indicated it is not possible to interchange the statutory formula and operating cost method as it would be a breach of the *Act*.
- The ATO suggests it is possible to take advantage of potential exemptions and other assistance to alleviate the impacts of COVID-19 as outlined in the ATO Fact Sheet ‘*COVID-19 and car fringe benefits*’ ([afs-car-fbt-covid-19.pdf \(ato.gov.au\)](#)) by using the operating cost method instead of the statutory formula.
- It is recognised that reporting using the operating cost method for the 2020/21 FBT reporting period may be difficult and onerous for businesses given the requirements for supporting records and documentation. However, the ATO has indicated that this does not need to be completed by the end of the FBT year but commenced before the end of the FBT year.
- The ATO has reiterated that respite from FBT liabilities for periods of COVID-19 lockdown and restrictions is available as outlined in the ATO’s ‘*COVID-19 and car fringe benefits Fact Sheet*’ by using the operating cost model:
 - Where a car has not been driven at all during the period it has been garaged at home or has only been driven briefly for the purpose of maintaining the car, we will accept that you don’t hold the car for the purpose of providing fringe benefits to your employee. In these situations, provided you elect to use the operating cost method, there will be a nil taxable value for the car and no FBT liability. You need to elect to use the operating cost method in writing before you lodge your FBT return for the year. You should maintain odometer records.
 - To show that, during the period the car is garaged, it has not been driven, or has only been driven briefly for the purposes of maintaining the car.

Further commentary from MTAA

The ATO as an agency of Government strictly adheres to the application of the Act and will not offer views or solutions on the Policy that underpins the Act.

In the meantime, if any respite is available it appears there is little option, other than for businesses to switch to an operating cost method for the reporting period and part of the one prior.

VADA thanks Richard Dudley for assisting with this issue.

You are encouraged to consult with your own taxation advisors on this issue.

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