Tax and Motor Vehicles (including Electric Vehicles)
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CCH Learning:

Hi everyone and welcome to today's webinar regarding tax and motor vehicles, including electric vehicles. I'm Alison Wood from Wolters-Kluwer CCH Learning, and I'll be your moderator for today.

Just a few quick pointers before we get started. If you are having sound problems, you can try toggle between audio and phone. Your PowerPoint is saved in the handout section of the GoToWebinar panel and shortly after the session today, you will receive an email letting you know your recording is ready to be viewed. In terms of questions, please type those into the questions box during the session. I will collate those questions and ask them at the Q&A towards the end. We do have quite a number of registrants for today's session, so we will try and get through as many questions as we can.

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Your presenter today is Mark Chapman, who is the director of tax communications for H&R Block Australia. Mark has over 25 years experience as a tax professional in both the UK and Australia, specialising in tax for small businesses and individuals. He's a member of the Institute of Chartered Accountants in England and Wales and the Chartered Institute of Taxation and is a fellow of CPA Australia. So without any further ado, I'll pass you over to Mark to commence today's presentation.

Mark Chapman:

Thanks, Alison and thank you everybody for taking the time to come along today, the day after the budget. I dare say you've got lots to deal with as a result of that budget fallout. So what are we going to cover today? We're going to talk about motor vehicles and tax. So we'll talk about when can deductions be claimed for motor car use. We'll actually talk about what actually is a car for tax purposes because this is important. It feeds through to various different components of the presentation. And we'll talk about the difference between a car and a motor vehicle and the various different ways in which they're treated for tax. We'll talk about the two methods of claiming deductions, so the cents per kilometre and logbook method. We'll talk about depreciation for motor vehicles and the various different ways in which a car can be depreciated depending on how it's actually used. I'll spend a bit of time talking about the special rules which apply to electric vehicles. So for example, the deductions for charging costs, home charging costs, and also the FBT exemption for electric vehicles.

And we'll talk about various other aspects related to fringe benefits tax and if there's time, I'll also talk about ride sourcing drivers, who are obviously a key user of motor vehicles.

So without further ado, let's look at what actually is defined as a car for tax purposes. So a car and a motor vehicle, not interchangeable terms for tax purposes. So a car is defined as a passenger vehicle, excluding motorcycles or similar vehicles, which is designed to carry a load less than one tonne and fewer than nine passengers. So if the vehicle doesn't fit that description, it is actually a motor vehicle, not a car, and it is treated separately for tax purposes. Car claims, so in other words, if we are dealing with a vehicle which is categorised as

a car, are recorded at box D1 on the tax return and the usual methods of claiming a deduction such as cents per kilometre or the logbook are available to the owner.

So other vehicles, as I just said, aren't categorised as cars for tax purposes and therefore any claims for other motor vehicles, so motorcycles, commercial vehicles, vehicles which designed to carry a load of more than one tonne, etc, etc, all of those vehicles, claims in relation to them are recorded at D2 for tax purposes. They go in a different box and indeed there's different method. We need to use actual costs for claims for those vehicles.

So what do we have to do to work out if the vehicle is a car? Well, in many cases it'll be obvious if it's a car. If you see a saloon or a hatchback, that's obviously a car. But in relation to for example, some of the utes that are on the market, there's a real dispute as to whether they're actually cars or commercial vehicles and that is when this particular methodology can be very useful. So I said on the previous slide that a car is a passenger vehicle designed to carry a load of less than one tonne and fewer than nine passengers. Now that one tonne carrying capacity relates to the maximum load that the vehicle can carry. That's also known various points in the tax documentation such as the ATO documentation as the payload capacity.

Now the payload capacity is the gross vehicle mass specified on the compliance plate by the manufacturer, reduced by the basic kerb weight of the vehicle. So the basic kerb weight is the weight of the vehicle with a full tank of fuel, oil and coolant, together with spare wheel, tools, including the jack and factory installed options. So the weight of passengers, goods or accessories such as bull bars, roof racks, et cetera, is excluded from that calculation. So in summary, the payload capacity is gross vehicle mass minus basic kerb weight. Now I dare say most of the people listening to this conversation are accountants or tax agents, but they're not necessarily experts in cars. You won't necessarily know what the gross vehicle mass is or indeed what the basic kerb weight is. However, the taxpayer should be able to do a bit of research such as contacting the dealer or contacting the manufacturer or looking at manufacturer specifications to provide that information to you to determine whether the vehicle is a car or not.

So just by way of example, we've got Betty who purchased a four by four high spec dual cab ute used solely for a business that included factory installed options. Betty also added roof racks and a bull bar as accessories. Now Betty needs to determine if the payload capacity is less than one tonne. So as a reminder, the payload capacity is the gross vehicle mass minus the basic kerb weight. So Betty looks at her compliance plate to get the gross vehicle mass and to work out the basic kerb weight, she needs to take the weight of the vehicle with a full tank of fuel, oil, coolant together with the spare wheel, the tools including the jack and the factory installed options. However, the basic kerb weight doesn't include passengers goods and her accessories such as the bull bar and the roof rack.

So having done that, she establishes that the gross vehicle mass is 3,200 kilograms. The basic kerb weight is 2,278 kilograms and therefore the payload capacity is 922 kilograms, which is less than one tonne and therefore the vehicle is a car. We'll see that calculation at various points during today's presentation because it is relevant to, for example, depreciation, also FBT and indeed the availability of deductions at the cents per kilometre or logbook rate because if the vehicle isn't a car, we need to claim deductions in a different box using a different method. So it is as well to be aware of that calculation because it is quite useful and it will come in handy later on as well.

So if we are dealing with a car, we can forget the other vehicles for the moment, we're just looking at cars. We can claim a deduction for work or business related use of a car that the taxpayer owns, leases or hires under a hire/purchase agreement. So it isn't possible to claim any expenses relating to a car which is owned or leased by someone else, including the employer or indeed another member of the family. However, the ATO will consider you to be the owner or the lessee of a car and eligible to claim expenses where a family or private arrangement made between you and the owner of the car took place even though in fact you weren't the registered owner. For example, in a situation where you're given a family car as a birthday present and the car continues to be

registered in somebody's name other than your own, then you can indeed use it as your own vehicle. You can make a claim because obviously you paid all of the expenses in relation to that car.

So the two methods to claim a deduction are the cents per kilometre method and the logbook method. So let's look in a bit more detail at those. The cents per kilometre method is only applicable where the taxpayer travels less than 5,000 kilometres as part of their job. So the first thing to do is to establish is it actually reasonable that this particular client did 5,000 kilometres as part of their job? The ATO has a real focus on this because they think that there are people out there who are simply claiming the 5,000 kilometres irrespective of whether they actually did them or not in order to boost their tax returns and to get a decent refund.

So for example, say for example you're dealing with a client who works in a department store in Melbourne CBD and they come to you with a claim of 5,000 kilometres which they claim to have incurred as part of that job. Well, how realistic is it that somebody who spends their entire working day within a shop in one location in Melbourne CBD actually did 5,000 kilometres as part of their job? So first of all, we've got to do a sense check as to whether it's reasonable that that 5,000 kilometres would actually be incurred. If it was then we can make the claim the amount is 85 cents kilometre for the current tax year, that's going up to 88 cents per kilometre from the 1st of July, 2024. The maximum claim is 5,000 kilometres per vehicle per taxpayer. Therefore, if the client actually changes their vehicle during the course of the year, they can potentially claim 10,000 kilometres.

Now importantly, this is a very effective method of claiming where the taxpayer did less than 5,000 kilometres. However, if their work related or business related use exceeded 5,000 kilometres, then the client either needs to use the logbook method or they need to restrict their claim to 5,000 kilometres. Now for somebody who did say 10,000 or 15,000 work-related kilometres a year, that obviously will lead to some disadvantage if they intend to use the cents per kilometre method. Therefore, it is very definitely worthwhile checking that the client is actually using the logbook method where they are undertaking extensive use of the vehicle for work-related purposes, certainly where they're doing more than 5,000 kilometres than they really should be steered towards the logbook method in order to maximise their deduction.

The 5,000 kilometre limit covers all motor vehicle usage. So for work, business, self-education, visiting a tax agent, etc, for any aspect that you can claim a deduction for motor vehicles, then all of those uses are wrapped up together within that 5,000 kilometre limit. It isn't possible to claim 5,000 for work and then claim some additional mileage or kilometerage for visiting your tax agent, say. This only applies to cars so it can't be applied to other vehicles. So motorcycles, minibuses, vehicles of over one tonne, etc. And where two or more people lease a car and each of them uses it for work purposes, then each can claim 5,000 kilometres. So even though there's only one car, each of them can claim a year the maximum deduction in those circumstances.

And in terms of substantiation, the client must be able to show that they undertook the journeys. So for example, a list of journeys, a diary or any other form of substantiation which shows that they actually undertook the journeys. That's all that's required in order to claim the 85 cents per kilometre method.

Or alternatively, the client can use the logbook method. Now the logbook must be kept for 12 weeks, however, it only needs to be kept once every five years or alternatively when usage patterns change in order to work out that business use percentage. The real disadvantage of a logbook, aside from the hassle of having to keep it for 12 weeks, you've got to be able to substantiate all of the expenses by way of invoices and receipts. So therefore this is obviously a very cumbersome method, particularly for more disorganised taxpayers because it's very easy to lose control of the keeping of invoices and receipts. The exception to the need to keep invoices and receipts is in relation to fuel and oil expenses, which is probably the most substantial of component of the logbook method. In that case, a reasonable estimate is possible by multiplying average fuel consumption for the car, for example, from the green vehicle guide by the average fuel price from the Australian Institute of Petroleum website.

Now the look book needs to be kept for 12 weeks, however, it doesn't need to be kept for 12 weeks within one tax year. It is possible to overlap the start of an income year with the logbook method. To use the logbook method for two cars, the logbook for each car must cover the same period. So it isn't possible to keep a logbook for one car from say July to September and a logbook for another car from January through till March. They've got to be for the same period. A new logbook isn't required when an employee changes cars. So it relates to the business use percentage of the vehicle not to the vehicle itself.

Odometer records also need to be kept showing the odometer reading of the car at the beginning and end of the 12-week period, as well as at the start and end of the year. So although the logbook needs to be only kept for 12 weeks and it only needs to be refreshed potentially once every five years, it's important to remember that those odometer records are required every single year to establish total kilometres travelled.

The taxpayer needs to exclude holidays and other periods of absence from the claim. The ATO has audited many logbooks and they found many instances of taxpayers who are simply claiming the work or business use percentage over the entire 52 weeks. Now that is not reasonable. Most people get four weeks leave, a couple of weeks sick, so you've got to be aware those absences do need to be excluded from the claim.

And logbooks need to be retained for five years from the lodgement date or for the last income year that the logbook was relied on. In other words, up to 11 years from when the logbook was first completed. I'm not sure how many taxpayers could actually go that far back and produce a logbook if they were required to do it, but nevertheless, that is the legal requirement.

In terms of the detail that the logbook needs to include, it needs to include when the logbook period begins and ends, so the beginning and end of the 12-week period, the car's odometer readings at the start and end of the logbook period, the total number of kilometres that the car travelled during the logbook period, the number of kilometres travelled for work based on journeys recorded in the logbook. And if two or more journeys in a row are made on the same day, they can be recorded as a single journey. The business use percentage for the logbook and details of each business trip, including the date the journey began and the date it ended. The car's odometer readings at the start and end of the journey. How many kilometres the car travelled on the journey and the reason for the journey.

And the logbook must be made at the end of the journey or as soon as possible thereafter. So in other words, it isn't possible to recreate a logbook after the event. It's got to be simultaneously with the actual journey itself and also it must be in English. So there's a long list of specifications for a logbook, many opportunities for the ATO to pick apart the logbook if they audit it. So therefore, you do need to educate your clients to meet those criteria entirely.

Now, a taxpayer can claim car expenses relating to a particular car using one method for a particular year of income and can then change to the other method for the next year of income and obviously so on. However, if that happens, then any break in the claiming of deductions using the logbook method means that the logbook would again have to be kept if the logbook method is to be used. So therefore that's something to be brought in mind if you encounter a client who insists on changing from one method to the other.

A taxpayer isn't obliged to apply the same basis of deduction for each car held during the year for income producing purposes. For example, say we've got a taxpayer who owns two cars, both of which are used for income producing purposes, that taxpayer could claim a deduction in respect of one on a cent per kilometre basis and the other on a logbook basis in one year, and in the next year of income, for example, they could claim a deduction from both cars on the logbook method, provided of course that the conditions, the application of that particular method are satisfied.

Now, in certain circumstances, the rules for calculating deductions in respect of commercial vehicles which weigh less than one tonne are relaxed. So if these circumstances apply, taxpayer can choose to apply one of the normal methods. So cents per kilometre or logbook method or ordinary principles. So in other words, the actual basis, whichever one the taxpayer prefers in order to calculate their deduction. So for example, where the vehicle is a panel van, a utility truck, a taxi, or any vehicle designed to carry less than one tonne, excluding any vehicle designed principally to carry passengers.

And the vehicle must only be used in one or more of the following ways. So for travel undertaken in the course of or which is incidental to producing the taxpayer's accessible income, for travel between the taxpayer's residence and the place where the car is used in the course of producing the taxpayer's accessible income, for travel by some other person who was given the car to travel between her residence and the place where the car is used in the course of producing the taxpayer's accessible income or for private travel by the taxpayer or some other person that was minor, infrequent and irregular.

So this is very much targeted at work-related use where there's very, very limited private use. So work-related use in this context includes, for example, home-to-work travel. This is about the only context in which it is applicable. Work journeys, home-to-work travel, and also private use, that's minor, infrequent and irregular. We'll talk about that phrase minor, infrequent and irregular in more detail later on in another context.

Now, if the vehicle isn't a car, we need to instead make a claim at box D2. So for example, motor vehicles which weigh more than one tonne, motorcycles, minivans, et cetera. In that case, the method for claiming a deduction is actual expenses including fuel and oil, repairs and servicing, interest on the loan if there is one, lease payments if relevant, insurance, registration, depreciation, et cetera. Now if the vehicle is used for both work and private purposes, we need to keep a diary to show how much of the expenses relate to each. And because we're claiming actual expenses, receipts need to be kept. So bank statements and credit card transaction receipts are not sufficient evidence for fuel purchases. Actual receipts do need to be kept.

Now in relation to electric vehicles, the ATO has recently adopted a fixed rate for the costs of charging electric vehicles. Obviously, if you're trying to work out how much of your home electricity an electric vehicle actually uses, that is going to be a very cumbersome process. It's almost impossible to accurately estimate the amount of electricity that a car is using to charge itself up at your home as opposed to the electricity that you're using for all the various other purposes within your home. And therefore, to deal with that, ATO has developed a fixed rate methodology to calculate the cost of electricity when an electric vehicle is charged at home. This is set out in the recent PCG 2024/2. Now, a taxpayer has a choice as to which method they're going to use. They can either use actual costs if they want to go through that nightmarish process of figuring out how much the electricity they've actually used, or they can use the fixed rate methodology in the PCG.

Now the choice between the fixed rate methodology and the actual basis is made per vehicle and applies for the whole of the income or the FBT year. However, it can be changed by the employer or the individual from year to year.

Now, if you've got a client who wishes to use the fixed rate method, certain criteria do need to be met, namely that the client first of all uses a zero emissions electric vehicle while carrying out their income earning activities. The client needs to incur electricity expenses when charging their electric vehicle at home and has kept the relevant records for the income year. So one copy of an electricity bill is, generally speaking, sufficient. However, they also do need to keep a record of their journeys so that the split between work use and private use can be determined. Then quite simply, having complied with those criteria, they simply need to multiply cents per kilometre rate, which is the EV home charging rate, by the total number of business or work-related kilometres travelled by the electric vehicle in the relevant income year. So the cents per kilometre rate in this case is 4.20 cents per kilometre.

Now, if electric vehicle charging costs are incurred at a commercial charging station rather than at home, then the taxpayer has a choice to make. The EV home charging rate can be used, but only if the commercial charging station costs are disregarded. Alternatively, if the commercial charging station cost is used, then the EV home charging rate can't be applied. Now crucially, all records such as receipts must be kept to substantiate the claim as per normal record-keeping rules.

Now a common question which I've received is it possible to use this method in association with the cents per kilometre method? Now as far as I know, the ATO haven't really tackled this question. I haven't seen anything which says yes or no. I haven't seen anything at all from the ATO regarding this, but it would seem slightly counterintuitive to claim the 4.20 cents per kilometre EV method and the cents per kilometre method for motor vehicle use, given that a component of that 85 cents per kilometre method is actually four fuel and oil. An electric vehicle obviously doesn't have fuel or oil, and indeed that's what the 4.20 cents per kilometre is designed to cover. It covers the electricity which an electric vehicle does use. So therefore that leads me to believe that the cents per kilometre method cannot be used in conjunction with the electric vehicle home charging method. In addition, of course, you do need to keep a logbook for this electric vehicle rate, so therefore, if you are keeping a logbook anyway, it does make sense to claim actual costs for your other running expenses.

Now, depreciation, the various different methods to claim depreciation. So obviously if you're an individual using the car for work-related purposes and you're claiming the cents per kilometre method, then you can't claim for depreciation at all because there's an element of depreciation included within the cents per kilometre method.

Now, for other individuals and businesses other than small businesses, which qualify for the simplified depreciation rules, depreciation is claimable over the effective life of the vehicle. Now, if you're a small business, which does qualify for the simplified depreciation rules, there are special rules. So first of all, you have to have a turnover of less than $10 million and then cars are added to a small business pool and the business portion of the cost is written off at a rate of 15% in the first year that they used or ready for use or 30% in each subsequent year. And do be aware that the instant asset write-off is available if the cost of the asset is less than $20,000. Now, that won't typically cover the cost of a new car, but it might well be very useful indeed if the car is purchased second-hand and you may be able to claim an instant write-off for the cost. That's the simplified depreciation rules.

Going back to the general method, which is to claim over the effective life of the vehicle. On this slide, we've got the normal depreciation rates. So generally speaking, a car is written off over an effective life of eight years. That's also the case in relation to basic ride sourcing services such as UberX. But if you've got a car which has been used to provide premium ride sourcing services, those limousine type cars, those black limousines occasionally you see at the airport for example, they're written off over six years. Rental cars are written off over five years. I think the theory is that rental cars are generally hammered by people who hire them and therefore they have a shorter effective life, and taxes are written off over just four years.

Now, in terms of cars, there is a limit to the amount of depreciation which can be claimed in relation to cars. That is the expensive car limit, which is currently $68,108 in the current tax year. That's going up next year to $69,674. It's designed to stop people from getting tax relief on expensive cars basically at the taxpayers expense and to encourage them to buy a moderately priced car instead. So you can't claim any depreciation if the car costs, for example, a $100,000. What you can claim up to the expensive car limit, we can't claim in excess of that.

Now for other vehicles such as commercial vehicles, the expensive car limit actually doesn't apply. So depreciation can be claimed for the whole cost of the vehicle, including the part in excess of the expensive car limit. So this is another area where that term calculation that we did earlier on involving the payload capacity is very relevant.

So just to summarise, in relation to expensive cars, which are in excess of the car limit of $68,108 from the 1st of July last year, depreciation could only be claimed up to the value of the car limit. Interest on finance, however, can be claimed on the whole value of the car, including the excess over 68,108. And indeed the GST credits are also restricted to the expensive car limit. However, that car limit doesn't apply to vehicles fitted out for use by people with a disability and it does crucially only apply to cars.

Now, I said that the payload capacity, that calculation that we did earlier on was clearly going to be very significant in relation to depreciation, and that's illustrated by this slide, which shows two dual cab utes. So ABC Proprietor Limited wants to purchase a new utility vehicle for their business. They narrowed down the choice to two dual cab utility vehicles, both of them costing more than the expensive car limit. So in relation to manufacturer A's dual cab ute, the payload capacity is 950 kilograms. Therefore, the expensive car limit does apply because that is categorised as a car. However, manufacturer B's dual Cab Ute has a payload capacity of 1,065 kilograms, which is more than one tonne, and therefore the expensive car limit does not apply. So you could have two very similar vehicles which look quite similar. The specifications might be essentially the same, however, just because one of them has a slightly bigger payload capacity, it is actually possible to claim depreciation on the entire cost, whereas the other one, we need to restrict the depreciation to the expensive car limit.

Now that's income tax. The other relevant tax aspect of owning motor vehicles of course is FBT. So employers are providing a car fringe benefit if they make a car available, which they own or lease to an employee for their private use. Now, for fringe benefits tax purposes, a car is any of the following, a sedan or a station wagon, any other goods carrying vehicle with a carrying capacity of less than tonne, such as panel van or utility, including four wheel drive vehicles and any other passenger carrying vehicle designed to carry fewer than nine passengers. Now, if the vehicle isn't a car, the employee has private use of it, the employer will be providing a residual fringe benefit rather than a car fringe benefit. Now there are two methods of calculating a car fringe benefit. So the statutory formula and the operating cost method and the employer can choose either method each year for each car.

So in relation to the statutory method, we simply multiply the base value of the car by 0.2%, and obviously there may be an additional element to that if the car is unused for part of the year or indeed if the employee contributes towards the cost of the car. Well, basically it's simply 0.2 times the base value of the car. The base value includes the original purchase price or the market value where the car is leased. It includes non-business accessories which have been added and GST. However, it excludes registration and stamp duty. And there's a one-third reduction after a car is owned for more than four full FBT years.

Now, this is obviously a very popular method because it's relatively easy to calculate. For that reason, it is quite commonly used. The operating, in relation to the statutory method, a car is taken to be available for the private use of an employee on any day they or their associates use it or allowed to use it for private purposes. If a car is garaged at or near the employee's home, even if only for security reasons, it's taken to be available for their private use regardless of whether or not they have permission to use the car privately. There's an exclusion for emergency services vehicles and private use can also include days when the employee is parked at an airport unless the employer removes the keys.

The other method is the operating cost method. That is rather more complicated. It requires a greater degree of substantiation. So the taxable value equals total operating costs times at the private use percentage, and then we deduct from that any additional amounts which the employee has contributed to the cost. So operating costs include everything that you think of, repairs and maintenance, fuel and oil, registration and insurance, depreciation and interest or leasing costs for leased vehicles. So therefore it's essential that a logbook is kept. So that's the same kind of logbook that was kept that we talked about earlier on. Odometer readings need to be kept, evidence of those operating costs and details of any employee contribution.

This is generally speaking, not a method which is appropriate where the there's extensive private use of a vehicle because the private use percentage is obviously a part of the calculation. And if that is very high, then the taxable value will also be very high. So that's another reason potentially to use the statutory method, which is simply taken as 20% times the base cost. That previous slide, that actually relates to the operating method, not the statutory method.

Now PCG 2016/10 allows employers who manage large car fleets to rely on a representative average business use percentage to calculate car fringe benefits for the fleet under the operating cost method. So this simplified approach applies if certain criteria are met. So if you've got an employer with a fleet of 20 or more cars where the cars are tools of trade cars, in other words, the cars are subject to very extensive business use, the employees are required to maintain logbooks in a logbook year. Here the employer holds valid logbooks for at least 75% of the cars in the logbook year. The cars are a make a model chosen by the employer rather than the employee. Each car in the fleet had a GSTA inclusive value of less than the luxury car limit applicable at the time the car was acquired. And the cars aren't provided as part of an employee's remuneration package, such as, for example, under a salary packaging arrangement. And employees cannot elect to receive additional remuneration in lieu of the use of the cars.

So if the employer meets all of those criteria, he can simply apply an average business use percentage to all of those tool of the trade cars held in the fleet in the logbook year, and indeed, in the following four years.

Let's just return briefly to electric vehicles. So as well as the 4.20 cents per kilometre home charging method, we've got another perk in relation to electric vehicles, which is that they're exempt from FBT or at least some of them are. So this relates to certain electric and plug-in hybrid vehicles. First of all, the vehicle must fall within the definition of a car for FBT purposes. So motorcycles, e-bikes, vehicles designed to carry a load of one tonne, et cetera, are not eligible for this exemption. The car must be a battery electric, hydrogen fuel cell or plug-in hybrid car. The car must have been first held and used for the first time on or after the 1st of July 2022. Obviously, this means that you could be eligible if you held, for example, owned or leased the car pre 1st of July 2022, but the car wasn't available for use until on or after that date.

And the first retail sale of the car must be below the luxury car tax threshold of fuel-efficient cars. So in other words, the cost of the car when it was first purchased must have been less than, well, if it was purchased in 2023, '24, it must have been less than $89,332. So this would cover most of the newer electric vehicles, the Hyundai and Fiats, et cetera, which typically costs 40, 50, $60,000, but it won't necessarily apply to, for example, the top of the range Teslas, which are a $100,000 plus. So you do need to make sure that the electric car that you're buying doesn't actually qualify for the exemption. And the ATO has confirmed that if you don't have access to information on the retail sales price of the car, you can use other sources of information such as an internet search, a car report, or an independent valuation that estimates the first retail sale price.

Now I said earlier on that if the car is a plug-in hybrid car, it is also subject to the FBT exemption. However, that is time limited. The exemption will run out on the 31st of March 2025, so next March, unless the taxpayer maintains a pre-existing commitment from on or before that date. For example, a lease agreement that hasn't been modified after that date.

The ATO has recently confirmed that in-home charging equipment won't fall within the scope of the FBT exemption. So they are considered separate property residual or expense payment fringe benefits, and they do attract full FBT.

The following car expenses are exempt from FBT, so they are included in the exemption if they're provided for an eligible electric car. So registration, insurance, repairs or maintenance, fuel, including the cost of electricity to charge electric cars. Although there's an FBT exemption and therefore the employer does not pay FBT on certain electric vehicles, the provision of an FBT exempt vehicle is still a reportable fringe benefit. Therefore, although exempt benefits are usually not reportable, this doesn't apply in relation to cars that are eligible for the FBT exemption. Therefore, there's a real compliance hit to employers because although they don't have to work out the taxable value for FBT purposes, they do have to work it out in terms of the reportable fringe benefits. So therefore that does create some additional hassle for both employers and employees.

Moving on, there's another type of FBT exemption whereby an employee's private use of certain commercial vehicles such as a taxi, panel van or ute, whether they're a car or not, is exempt from FBT if private use is limited to travel between home and work, travel which is incidental to travel in the course of duties of employment and non-work-related use that is minor, infrequent and irregular.

Now, I said earlier on that we would explore that phrase in a bit more detail because basically the same criteria also applied to FBT. Practical Compliance Guideline 2018/3 defines minor, infrequent and irregular use as situations where the employee uses the vehicle to travel between their home and the place of work, and any diversion adds no more than two kilometres to the ordinary length of the trip. And for journeys undertaken for a wholly private purpose, the employee does not use the vehicle to travel more than 1000 kilometres in total, and the return journey that exceeds 200 kilometres.

So some examples which are taken directly from the PCG of eligible minor infrequent and irregular private travel where an employee usually stops at the newsagent to pick up a newspaper on their way to work and the diversion adds no more two kilometres to total trip from work, that will be minor, infrequent and irregular private travel. Where an employee provides confirmation to the employer that their private use of their eligible vehicle during the year was limited to taking domestic rubbish to the tip, which is a hundred kilometres return journey and moving residences and travel from home to the new residence three times, which totals 200 kilometres travelled in total, that will also be minor, infrequent and irregular. And some examples of ineligible private travel. So during the football season, the employee attends weekly football training after work, the diversion adds more than two kilometres to the total journey from work to home, that is ineligible private travel, as is a situation where the employer is aware the employee travels to the beach on a public holiday and the return trip exceeds 200 kilometres.

Now FBT and utes. So there's a common misconception, you can call it myth if you like, that utes are going to be exempt from FBT because they're commercial vehicles. So the first thing to note is that that isn't necessarily going to be the case. There are conditions that must be met regarding no private use. So those are the conditions we just talked about on the previous slide, but there's also a question mark around whether many dual cab qualify as commercial vehicles in the first place. So when you've got a vehicle that qualifies for the work-related use exemption, and those are not classified as a car, i.e., vehicles other than those which are designed to carry on load of less than one tonne and fewer than nine passengers, then obviously the work-related use exemption is available. Alternatively, a vehicle may qualify for the exemption if while it's classified as a car, it's a taxi, panel van, utility truck, or any other road vehicle that while designed to carry a load of less than one tonne is not designed for the principal purpose of carrying passengers.

So in relation to dual cab use, they will qualify for the work-related use exemption and therefore there'll be FBT-free only if either of the following tests are satisfied.

First of all, they're designed to carry a load of one tonne or more or more than eight passengers. Or in the second instance, while having a designed load capacity of less than one tonne, they aren't designed for the principal purpose of carrying passengers.

Now if we look at current model dual cab views, they generally have a maximum seating of seven, although it often is five, and as such, they couldn't qualify under the second limb, which I just talked about on the previous slide. So in terms of whether a particular vehicle is designed to carry a load of one tonne or more, where we work that out using the same methodology that we use to determine the applicability of the expensive car depreciation limit for income tax purposes. So it's the same calculation, gross vehicle mass, but less basic kerb weight. So that will work out our payload capacity. So it will determine whether the vehicle has a load capacity of one tonne or more or less than one tonne.

Now where a particular dual cab ute has a load capacity of one tonne or more, it will be a commercial vehicle and the FBT exemption will apply if the employee's use of the vehicle during a particular FBT year consists solely of eligible work-related travel or private travel, which is minor, infrequent and irregular. However, a dual cab ute that has designed load carrying capacity of less than one tonne can still qualify for the work-related use exemption if the vehicle is not designed for the principal purpose of carrying passengers. In other words, the majority of the load capacity is not attributable to passenger carrying capacity.

Now we work out the design passenger carrying capacity simply by multiplying the designed seating capacity of the vehicle, including the driver by 68 kilograms. That's the figure which is used in the Australian design rules. If the total passenger weight exceeds the remaining load capacity, the vehicle is treated as being designed for the principal purpose of carrying passengers and therefore is ineligible for the work-related use exemption. So take for example, a vehicle which has a gross vehicle weight of 2000 kilograms, a basic kerb weight of 1400 kilograms and has a designed seating capacity of five. Now feeding those into the little calculation which is just outlined, that vehicle would be designed principally for the carriage of passengers because its total load capacity is 600 kilograms. So the 2000 minus the 1400 of which the majority, so 340 kilograms, in other words, five times 68 will be absorbed by its designed passenger carrying capacity. Therefore, it doesn't qualify for the exemption at all.

However, with many modern dual cabs such as Toyota Hilux, they do qualify for the exemption because the payload capacity is so large. Typically, with a Toyota Hilux, it has a payload capacity of say 995 kilograms. So therefore, if the designed seating capacity is only five, we can see that most of it is designed for the carriage of goods or other stuff. So it is necessary to do that calculation. In relation to single cabs, well they qualify for the exemption anyway as regarded as commercial vehicles. So they often have a carrying capacity of over one-tonne, and indeed they only seat two passengers. Therefore, they're not designed for the principal purpose of carrying passengers.

And just on FBT on cars, there's no limit to the number of vehicles that an employer can provide to an employee. However, just note that where the employer is a personal services entity, it can deduct car expenses and FBT related to only one car in relation to that individual's personal services income. And finally, I've got a few slides about novated leases, so I think I won't go through those slides in much detail. It's two o'clock. But just in relation to this slide, it is important to note that because the employee doesn't own or lease the car, they aren't entitled to claim a deduction in relation to any costs associated with the car. So section 51AF provides that no deduction is allowed for car expenses incurred by employees where the employer is providing the car to the employee to use, and that is the case if the car is salary-sacrificed or on a novated lease.

And that applies even when the employee has personally incurred unreimbursed car expenses out of after-tax income. So the employee can't claim a deduction for any costs in relation to that car. I've also got a short section on ride sourcing services, but I won't go through those now they're available to you to have a look at in the presentation and do please take a look at that if that's of interest to you. However, for the moment, I will wrap things up. I'll hand back to Alison to deal with any questions and to formally end the session. And if there are any questions, I'm happy to take them now. If I can't deal with them or if we don't have time to deal with them, I'll happily deal with them out of session. Thank you.

CCH Learning:

Thank you very much, Mark. All right, surprisingly only one question so far, so if anyone else wanted to pop some questions through, we've got eight minutes that we can cover those. Pop that into the questions pane, and then in the interim I will mention our upcoming webinars.

So on the 21st of May, we're looking at our tax technical update for the month. Then advisory board essentials, also year-end conversations for SMSF clients, agile mindset and mental fitness, how to deal with the ATO on general interest charge remissions, and also financial and sustainability reporting. So jump on the CCH learning website if you're after the details of any of those sessions and there's lots more as well.

All right, first question from Junirawati. Apologies for my pronunciation there. So for 2023, temporary full expensing, can a company claim the full cost under the car limit if there are personal use by the employees that is subject to FBT?

Mark Chapman:

I didn't actually talk about temporary full expensing because of course that's now ended. But nevertheless, if you've got somebody who is eligible to claim temporary full expensing because we're looking at the year ended 30th of June, 2023, yes, if the company incurs the cost, they're eligible to claim temporary full expensing for the entire cost of the car up to the expensive car limit. And that applies irrespective of whether the car is then provided to the employee to use privately. So the employer will end up paying tax on that by way of FBT, therefore they are entitled to claim a full deduction for the cost up to the expensive car rate.

CCH Learning:

Thank you, Mark. And two more questions now. So Rebecca's asked, is there a different depreciation rate for electric vehicles or maybe in the future?

Mark Chapman:

I'm not actually aware of that. I assume that the normal depreciation rate for cars applies to electric vehicles as well because I'm not aware that I've seen anything which is specific to electric vehicles. So I'll tentatively say they're subject to the same depreciation as all other vehicles, but I possibly may have to correct myself there after the session. So I'm not entirely sure is the simple answer.

CCH Learning:

Thank you, Mark. Couple more questions have come through. So Ashish has asked, for FBT if a car is leased and market value applies as base value, say for example, the car is leased for 40 grand when the original price was a hundred grand and the car has exceeded the four-year mark, how does the one-third FBT cost base reduction apply in this case?

Mark Chapman:

Can you just run that one past me again? That's quite a long question.

CCH Learning:

Yeah, there's a bit to it. So for FBT, if a car is leased and market value applies as base value, so for example, the car is leased for 40 grand when the original price was a hundred grand and the car has exceeded the four-year mark, how does the one-third FBT cost base reduction apply in this case?

Mark Chapman:

So FBT is calculated on the market value to the employer when they acquired the car, which was 40,000. So the car's now four years old to the employer, so therefore that will be reduced by a third to whatever that comes out to, 27,000 or something.

CCH Learning:

Thank you, Mark. Question from Sue. So for electric vehicles, do we need a logbook to determine business use percentage-

Mark Chapman:

Yes.

CCH Learning:

... and any other deductions besides charging costs if no logbook?

Mark Chapman:

Well, we do need to keep a logbook in order to claim the electric vehicle charging rate. Obviously without a logbook you're not able to determine the work and private use element and a logbook is actually stipulated, I think in the actual PCG. What was the rest of the question? Sorry.

CCH Learning:

So any other deductions besides charging costs if no logbook?

Mark Chapman:

Well, if there's no logbook, then you're not able to claim the electric vehicle charging rate and you can simply claim on the cents per kilometre method for the four 5,000 kilometres of business use. If there is a logbook, then you can claim the other costs, cost of repairs, insurance, et cetera, according to the business use percentage, which is arrived at by the use of the logbook.

CCH Learning:

Thank you, Mark. Amir has asked, can you please elaborate on the services entity providing electric cars to employer? FBT would be exempt, but you mentioned about the only one car.

Mark Chapman:

Yeah, that applies to personal services entities. So a personal services entity can only provide one car to an employee, so that's always been the case. I don't see the interaction there between the permission of one car and the FBT exemption. The two seem to operate independently, so I'm not quite certain what that question question's getting at.

CCH Learning:

Thank you, Mark. And Ashish has said to follow up on that leased car FBT example, does this mean that the one third reduction applies to each holder of the vehicle, meaning the cost base can be reduced more than once?

Mark Chapman:

I don't think so. I think it's probably best... I think the question that you're asking is potentially getting quite complex and it's better to deal with it out of session rather than within the session. But generally speaking, you can't reduce the cost more than once.

CCH Learning:

Perfect. Thank you very much, Mark. That is all the questions that have come through for today. So we will look at wrapping the session up here. So in terms of next steps, please take a moment to pop your opinions in the feedback survey, and shortly after the session today, you will receive an email letting you know when the e-learning recording is ready to be viewed. You can also access the verbatim transcript, CPD certificate, and of course this PowerPoint presentation. So thank you again to Mark for the session today, and thank you to everyone in the audience. We hope to see you back online for another CCH Learning webinar very soon.