Tax and Motor Vehicles (including Electric Vehicles)

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Wednesday 15 May 2024







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Your Presenter



- Mark Chapman
- Director of Tax Communications
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Today's session will cover



Motor vehicles and tax – Avoiding the ATO spotlight

- When can deductions be claimed for motor car use?
- An overview of the cents per kilometre and logbook methods.
- What is a car for tax purposes? Which vehicles are not cars and how are they treated for tax?
- Record keeping for car use.
- Depreciation for motor vehicles.
- Electric vehicles –deductions for charging costs
- Expensive car limit how it applies to income tax deductions and GST.
- Ride-sourcing drivers how the rules apply to drivers for Uber and other similar services.
- Salary sacrifice arrangements.
- FBT and motor vehicles
- Electric vehicles FBT exemption
- Can a ute be provided FBT free?

What is a car?

- A car and a motor vehicle are not necessarily the same thing for tax purposes
- A car is a passenger vehicle (excluding motor cycles or similar vehicles) designed to carry a load less than one tonne and fewer than nine passengers.
- Car claims are recorded at D1 on the tax return (cents per km or logbook)
- Other vehicles are not categorised as cars for tax purposes.
- Claims for other motor vehicles are recorded at D2 for tax purposes (actual costs)

Working out if a vehicle is a car

- The one tonne carrying capacity limit relates to the maximum load the vehicle can carry, also known as the payload capacity.
- The payload capacity is the gross vehicle mass (GVM) as specified on the compliance plate by the manufacturer, reduced by the basic kerb weight of the vehicle.
- 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 jack) and factory-installed options. The weight of passengers, goods or accessories (eg bull bars, roof racks, etc) is excluded.
- Payload capacity = GVM basic kerb weight

Working out if a vehicle is a car

- Betty purchased a 4x4 higher spec dual cab utility vehicle used solely for her business that included factory-installed options. Betty also added roof racks and a bull bar as accessories.
- Betty needs to determine if the payload (carrying) capacity is less than one tonne.
- The payload capacity = gross vehicle mass (GVM) basic kerb weight
- Betty looks at her compliance plate to get the GVM.
- To work out the basic kerb weight, take the weight of the vehicle with a full tank of fuel, oil and coolant together with spare wheel, tools (including jack) and factory-installed options.
- The basic kerb weight does not include passengers, goods, and her accessories (bull bar and roof racks).
- GVM = 3200kg
- Basic kerb weight = 2278kg
- Payload capacity is 3200kg 2278kg = 922kg

- Deductions can be claimed for the work or business related use of a car that you own, lease or hire (under a hire purchase agreement).
- You cannot claim any expenses relating to a car owned or leased by someone else, including your employer or another member of your family.
- However, the ATO will consider you to be the owner (or lessee) of a car and eligible to claim expenses where a family or private arrangement made between you and the owner (or lessee) even though you were not the registered owner.
- For example, you can claim for a family car that was given to you as a birthday present and despite the fact it was not registered in your name, you used it as your own vehicle and you paid all expenses

- Cents per kilometre (85 cents per km from 1 July 2023)
 - Sense check: Is it reasonable that the client did 5,000 kms as part of their job?
 - Maximum claim is 5,000 kms per vehicle per taxpayer. If client changes vehicle, they can claim 10,000km
 - If client vehicle usage exceeds 5,000 kms, client must either use logbook method or restrict claim to 5,000 kms
 - 5,000 km limit covers all motor vehicle usage for work, self education, visiting tax agent, etc
 - Cannot be applied to motorcycles, mini buses and vehicles of 1 tonne or over
 - Where two or more people lease a car and each uses for work purposes, each can claim 5,000km
 - Client must be able to show that they undertook the journeys
 - "Reasonable estimate" (s28-25(3))
 - List of journeys or other substantiation

- Logbook method:
 - New logbook every 5 years or when usage patterns change to work out business use percentage
 - Must be kept for 12 weeks
 - Must be supported by invoices/receipts
 - Reasonable estimate of fuel and oil expenses can be made by multiplying average fuel consumption for the car (from the Green Vehicle Guide) by average fuel price (from the Australian Institute of Petroleum website)
 - The 12-week period may overlap the start of an income year.
 - To use the logbook method for two cars, the logbook for each car must cover the same period.
 - New logbook is not required when an employee changes cars
 - Odometer records must also 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
 - Odometer records are required **every year** to establish total km's travelled
 - Exclude holidays and other absences from claim
 - Logbook must be retained for 5 years from the lodgement date for the last income year the log book was relied on (ie, up to 11 years from when logbook first completed)



- Logbook must specify
 - when the logbook period begins and ends
 - 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 activities based on journeys recorded in the logbook. If two or more journeys in a row are made on the same day, record them as a single journey
 - the business use percentage for the logbook period.
 - 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.
 - The logbook entries must be made at the end of the journey (or as soon as possible afterwards) and must be in English.

- A taxpayer can claim car expenses relating to a particular car using one method for a year of income and change to the other method for the next year of income, and so on.
- However, any break in the claiming of deductions using the log book method means that a log book would again have to be kept if the log book method is to be used.
- In addition, a taxpayer is not obliged to apply the same basis of deduction for each car held during the year for income-producing purposes.
- Example: Change of car substantiation method
- A taxpayer who owns two cars, both of which are used for income-producing purposes, could claim a deduction in respect of one on a cents per kilometre basis and the other on a log book basis in one year and in the next year of income could claim a deduction for both cars on the log book method provided, of course, that the conditions for the application of that method are satisfied.

- In certain circumstances, the rules for calculating deductions in respect of commercial vehicles of less than one tonne are relaxed.
- If these circumstances apply, the taxpayer can choose to apply one of the normal methods or ordinary principles (s8-1) can be used to calculate the deduction:
 - The vehicle is a panel van, utility truck, taxi or any vehicle designed to carry less than one tonne, excluding any vehicle designed principally to carry passengers.
 - The vehicle is used ONLY in one or more of the following ways:
 - for travel undertaken in the course of, or which is incidental to, producing the taxpayers assessable income
 - for travel between the taxpayers residence and the place where the car is used in the course of producing the taxpayers assessable income
 - for travel by some other person who was given the car to travel between his/her residence and where the car is used in the course of producing the taxpayers assessable income or
 - for private travel, by the taxpayer or some other person, that was minor, infrequent and irregular.

Other vehicles

- Includes motor vehicles over one tonne, motor cycles, minivans, etc
- Claim at D2
- Claim actual expenses including:
 - Fuel and oil
 - Repairs and servicing
 - Interest on loan
 - Lease payments
 - Insurance
 - Registration
 - Depreciation
- If the vehicle is used for work and private purposes, use a diary to show how much of the expenses relate to each
- Receipts must be kept. Bank statements and credit card transactions receipts are not sufficient evidence for fuel purchases, actual receipts must be kept.

Electric vehicles – income tax deduction for costs of charging

- With the use of zero emissions vehicles (electric vehicles) on the rise in Australia, individual taxpayers who incur work-related car and motor vehicle expenses are faced with the compliance challenge of calculating electricity costs incurred when charging electric vehicles at their homes. This is because electricity usage for charging electric vehicles is combined with the total electrical consumption of the household, and often cannot be separately identified and valued.
- To address the compliance challenge for employers and individual taxpayers, the ATO has developed a draft fixed-rate methodology to calculate the cost of electricity when an electric vehicle is charged at the home. This is set out in PCG 2024/2.
- It is the individual's choice if they want to use the methodology outlined in this draft Guideline or if they would like to determine the tax deduction by working out the actual cost of electricity used. However, using the actual basis is often complicated, unwieldy and simply not possible for many taxpayers.
- The choice between the fixed rate methodology and the actual basis is made per vehicle and applies for the whole income or FBT year. However, it can be changed by the employer or individual from year to year

Electric vehicles – income tax deduction for costs of charging

- If clients wish to rely on the fixed rate method, certain criteria need to be met, namely that the client:
 - uses a zero emissions electric vehicle while carrying out their income-earning activities
 - incurs electricity expenses when charging their electric vehicle at home, and
 - has kept the relevant records for the income year.
- Then, simply multiply the cents per kilometre rate (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.
- The rate is 4.20 cents per kilometre.
- If electric vehicle charging costs are incurred at a commercial charging station (rather than in the home), a choice has to be made. The EV home charging rate can be used, but only if the commercial charging station cost is disregarded. If the commercial charging station cost is used, the EV home charging methodology cannot be applied. Further, all necessary records such as receipts must be kept to substantiate the claim, as per normal record-keeping rules.



Depreciation

- If an individual claim the cents per kilometre method, no separate claim for depreciation can be made.
- 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.
- The simplified deprecation rules are applicable to businesses with a turnover of less than \$10 million.
 - Cars are added to a small business pool and the business portion of the cost is written off at:
 - 15% deduction in the first year they are used or ready for use
 - 30% deduction in each subsequent year
 - The instant asset write off is available if the cost of the asset is less than \$20,000 (which could be useful if the car is purchased second hand).



Depreciation

• Effective life of vehicle designed to carry a load of less than 1 tonne and fewer than 9 passengers

Vehicle	Effective life	Diminshing value rate	Prime cost rate
Generally	8 years	25%	12.50%
Cars used to provide basic ride sourcing services	8 years	25%	12.50%
Cars used to provide premiums ride sourcing services	6 years	33.33%	16.67%
Rental cars	5 years	40%	20%
Taxis	4 years	50%	25%

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Depreciation

- For cars, the amount which can be claimed under depreciation is capped at the expensive car limit (\$68,108 for 2023/24 and \$69,674 for 2024/25)
- For other vehicles (eg commercial vehicles), the expensive car limit does not apply, ie depreciation can be claimed for the whole cost of the vehicle (including the part in excess of the expensive car limit)



Expensive cars

- Expensive cars (in excess of car limit of \$68,108 from 1 July 2023)
 - Depreciation can only be claimed up to the value of the car limit
 - The car limit does not apply to vehicles fitted out for use by people with disability
 - Interest on finance can be claimed on the whole value of the car, including the excess over \$68,108
 - GST credits are also restricted to the expensive car limit
 - Applies only to *cars* (see earlier slide)



Expensive cars

• Example: ABC Pty Ltd wants to purchase a new utility vehicle for their business. They narrow down the choice to two dual cab utility vehicles, both costing more than the expensive car limit:

Manufacturer A dual cab ute	Manufacturer B dual cab ute
GVM = 2900kg Basic kerb weight = 1950kg Payload capacity = 950kg	GVM = 3200kg Basic kerb weight = 2135kg Payload capacity = 1065kg
Payload capacity is less than one tonne so the expensive car limit applies	Payload capacity is more than one tonne so expensive car limit does not apply.



FBT car benefits

- Employers are providing a car fringe benefit if they make available a car they own or lease to an employee for their private use.
- For fringe benefits tax (FBT) purposes, a car is any of the following:
 - a sedan or station wagon
 - any other goods-carrying vehicle with a carrying capacity of less than one tonne, such as a panel van or utility (including four-wheel drive vehicles)
 - any other passenger-carrying vehicle designed to carry fewer than nine passengers.
- If the vehicle is not a car, and the employee has private use of it, the employer will be providing a residual fringe benefit rather than a car fringe benefit.
- The two methods of calculation of a car fringe benefit are the Statutory Formula and the Operating Cost method
- The employer may choose either method each year for each car

Statutory method

0.2 × Base value of the car × Number of days used or available for private use divided by Number of days in the year

Employee contributions

—

- Base value includes:
 - Original purchase price (or market value where car is leased)
 - Non business accessories added
 - GST
- Base value excludes:
 - Registration and stamp duty
- One third reduction after car is owned for more than 4 full FBT years



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 are 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 is taken to be available for their private use regardless of whether or not they have permission to use the car privately.
- Exclusion from the above for emergency service cars (eg police cars) that are:
 - Visibly marked on the exterior of the vehicle that is used for that purpose
 - Is fitted with a flashing warning light and a horn, bell or alarm
- Private use may include days when employee is parked at an airport (unless the employer removes the keys)
- Excludes days the car does not leave business premises or is undergoing repairs



Operating cost method

- Taxable value = (total operating costs x private use percentage) less employee contribution
- Operating costs include:
 - Repairs and maintenance
 - Fuel and oil
 - Registration and insurance
 - Depreciation and interest (or leasing costs, for leased vehicles)
- Records required:
 - Logbook (per earlier slide)
 - Odometer readings
 - Evidence of operating costs
 - Details of contributions



Operating cost method

- 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.
- This simplified approach applies if:
 - it is an employer with a fleet of 20 or more cars
 - the cars are "tool of trade" cars (ie the cars are subject to extensive business use)
 - the employees are required to maintain logbooks in a logbook year
 - the employer holds valid logbooks for at least 75% of the cars in the logbook year
 - the cars are of a make and model chosen by the employer, rather than the employee
 - each car in the fleet had a GST-inclusive value less than the luxury car limit applicable at the time the car was acquired, and
 - the cars are not provided as part of an employee's remuneration package (eg under a salary packaging arrangement), and employees cannot elect to receive additional remuneration in lieu of the use of the cars.
- If an employer meets the above criteria, it can apply an average business use percentage to all tool of trade cars held in the fleet in the logbook year and the following 4 years.

Electric vehicles – FBT exemption

- Certain electric and plug-in hybrid vehicles can now be provided to employees FBT free.
- The vehicle must fall within the definition of a car for FBT purposes that is, motorcycles, e-bikes and vehicles designed to carry a load of greater than one tonne are ineligible.
- 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 1 July 2022 this means that you
 can be eligible if you held (for example, owned or leased) the car pre-1 July 2022, but the car was not
 available for use until on or after that date.
 - Accordingly, where a second-hand electric vehicle is held and used pre-1 July 2022, but sold to a new owner on or after 1 July 2022, the car benefit would not be exempt from FBT as the car was held and used pre-1 July 2022 (by the previous owner).
- The first retail sale of the car must be below the luxury car tax threshold for fuel efficient cars (\$89,332 for 2023–24) 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.
- For plug-in hybrids, the exemption will be available only until **31 March 2025**, unless the taxpayer maintains a pre-existing commitment from on or before that date (for example, a lease agreement that has not been modified post that date).

Electric vehicles – FBT exemption

- The ATO has confirmed that in-home charging equipment will not fall within the scope of the FBT exemption. If provided to or reimbursed for employees, these will constitute separate property, residual or expense payment fringe benefits — attracting full FBT.
- In addition, The following car expenses are exempt from FBT if they are provided for an eligible electric car:
 - registration
 - insurance
 - repairs or maintenance
 - fuel including the cost of electricity to charge electric cars.
- Reportable Fringe Benefits:
 - Although exempt benefits are usually non-reportable, this is not the case for cars that are eligible for this FBT exemption.
 - The amount of the reportable fringe benefit is likely to be significant in value and to have a detrimental effect on employees who employees who are eligible for government entitlements or who have relevant financial commitment..
 - The requirement to calculate a 'notional' taxable value for an exempt vehicle creates additional administration for employers and employees alike.

Exempt car benefits

- An employee's private use of certain commercial vehicles (eg taxi, panel van or ute) whether cars 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
- Practical Compliance Guide 2018/3 defines "minor, infrequent and irregular" use:
 - the employee uses the vehicle to travel between their home and their place of work and any diversion adds no more than 2 km to the ordinary length of that trip, and
 - for journeys undertaken for a wholly private purpose, the employee does not use the vehicle to travel more than 1,000 km in total and a return journey that exceeds 200 km.
- Private use of an unregistered vehicle is an exempt benefit where the car is unregistered at all times during the year it is held by the provider and where it is held principally for use in business operations.

Exempt car benefits – PCG 2018/3

- Eligible minor, infrequent and irregular private travel
 - An employee usually stops at the newsagent to pick up a newspaper on their way to work. The diversion adds no more than two kilometres to the total trip from home to work.
 - 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 (100 kilometres return journey); and
 - moving residences and travel from home to the new residence three times (200 kilometres travelled in total)
- Ineligible private travel
 - 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.
 - The employer is aware that the employee travels to the beach on a public holiday and the return trip exceeded 200 kilometres.

FBT and utes

- There is a common myth that dual cab utes are not liable for FBT because the FBT exemption for eligible commercial vehicles will apply.
- Firstly, there are conditions that must be met regarding no-private use (see previous slide) but there is also a question mark around whether many dual cab utes qualify as commercial vehicles.
- Vehicles that qualify for the work-related use exemption are those that are not classified as a car, ie, vehicles other than those which are designed to carry a load of less than one tonne and fewer than 9 passengers.
- Alternatively, a vehicle may qualify for the exemption if, while classified as a car, it is 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, dual cabs will qualify for the work-related use exemption only if either of the following tests are satisfied:
 - a) they are designed to carry a load of one tonne or more, or more than eight passengers (sub-section 47(6)); or
 - b) while having a designed load capacity of less than one tonne, they are not designed for the principal purpose of carrying passengers (sub-section 8(2)).

FBT and utes

- Current model dual cabs can have a maximum seating capacity of seven (although it is typically five) and, as such, could not qualify under the second limb, above.
- Whether a particular vehicle is designed to carry a load of one tonne or more is worked out using the same methodology as applied in determining the applicability of the expensive car depreciation limit for income tax purposes. Therefore, the load capacity of a motor vehicle is its gross vehicle weight as specified on the compliance plate by the manufacturer, minus the basic kerb weight of the vehicle. 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 jack) and installed options but excluding the weight of goods or occupants.
- Where a particular dual cab model 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.
- A dual cab that has a designed load carrying capacity of **less than one tonne** may still qualify for the workrelated use exemption if the vehicle is not designed for the principal purpose of carrying passengers, ie the majority of the load capacity is not attributable to passenger carrying capacity.



FBT and utes

- The designed passenger carrying capacity is determined by multiplying the designed seating capacity (including the driver's) by 68 kg, which is the figure 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 as such is ineligible for the work-related use exemption.
- Take, for example, a vehicle which has a gross vehicle weight of 2,000 kgs, a basic kerb weight of 1,400 kgs, and has a designed seating capacity of five. Such a vehicle would be designed principally for the carriage of passengers because its total load capacity is 600 kgs (2,000 kgs minus 1,400 kgs) of which the majority, 340 kgs (5 x 68kgs), would be absorbed by its designed passenger carrying capacity. Therefore, it doesn't qualify for the exemption.
- Many modern dual cabs (eg the Toyota Hilux) do qualify for the exemption because their payload capacity is so large (995 kgs).
- Single cab utes qualify for the exemption as they are regarded as commercial vehicles (they often have a carrying capacity of over 1 tonne and they only seat two passengers therefore they are not designed for the principal purpose of carrying passengers).

FBT on cars

- There is no limit in the FBT regime to the number of vehicles that an employer may provide to an employee.
- However, where the employer is a personal services entity, it can deduct car expenses and FBT relating to only one car in relation to one individual's personal services income.



Novated leases

- A novated lease arrangement is a form of leasing that offers some flexibility to employers in relation to employee remuneration packages. Features include :
 - it is a three-way arrangement between the employee, the employer and the leasing institution
 - the employee enters into a lease with the leasing institution directly
 - the employee, employer and finance company enter into a novation agreement that has the effect of transferring the obligation to pay lease payments to the finance company from the employee to the employer
 - car repayments are deducted from gross salary by the employer (salary sacrificing) meaning that overall income tax is reduced for the employee
 - on expiry, the employer discontinues paying the lease premiums, and the employee may acquire the car at its residual value.
- A novated lease arrangement allows employees to take the vehicle with them when they leave employment alleviating the employer of the risk of being left with a vehicle in the event that the employee ceases employment.
- Per IT 2509 a novated lease arrangement between an employer and employee gives rise to a car fringe benefit.



Novated leases

- The expensive car limit reduces the tax benefits that would otherwise result from the inclusion of a luxury vehicle in a salary package.
- The provisions limit the amount of depreciation or lease payments that the employer may claim in respect of the vehicle however for FBT purposes, the operating cost and statutory formula methods both use the **full** cost of the car or the **full** value of lease payments as a basis for determining its taxable value.
- Generally, the benefits of salary packaging cars deteriorates when salary falls below \$180,000, and may disappear if it falls below \$120,000 due to the rate differential between the applicable resident individual's marginal tax rate and the top marginal rate on which FBT is based.



Salary sacrifice/novated leases

- Because the employee doesn't own or lease the car in these situations they aren't entitled to claim any costs associated with the car.
- Section 51AF of the ITAA 1936 provides that no deduction is allowed for car expenses incurred by employees where the employer is providing the car to the employee to use
- This is the case even where the employee has personally incurred unreimbursed car expenses out of after-tax income





Ride sourcing services (eg, Uber)

- Income earned from ride-sourcing is assessable income.
- Expenses incurred in running the ride-sourcing business will also be deductible. This may include expenses that relate to holding, maintaining or operating any assets used to provide the ridesourcing services.
- Ride-sourcing drivers are in business. The ATO has confirmed that they consider drivers to be independent contractors NOT employees of the ride-sourcing platform.
- Calculate car deductions using the usual two methods. Note that business journeys include trips to pick up passengers and trips after dropping passengers (as well as actual fare paying journeys).

Ride sourcing services (eg, Uber)

- Temporary full expensing is available to ride sourcing drivers in relation to their cars (subject to the expensive car limit)
- The relief is available on second-hand assets as well as new ones (because ride sourcing drivers will qualify as small business entities)
- Tax deductions can be claimed for:
 - Any licensing or service fees paid to the ride sourcing platform (eg, Uber)
 - Fuel for the car*
 - Vehicle licensing and registration*
 - Mobile phone bills*
 - Costs of cleaning, servicing and repairing the vehicle*
 - Insurance*
 - Tax agent/accountants fees
 - Bank fees
 - (*business element only)



Ride sourcing services

- All those who are providing ride-sharing services and are conducting an enterprise must apply for an ABN and register for GST
- Those providing ride-sharing services must account for GST from the first dollar of turnover (\$75,000 threshold does not apply)
- See Uber B.V. v FC of T, Federal Court of Australia, 17 February 2017
- Being registered for GST because of Uber activity may impact on the GST status of other business activities undertaken
- GST must be calculated on the full fare, not the net amount received after deducting any fees or commissions.
- For example, if a passenger pays \$55 and Uber pays the driver \$44 (after deducting an \$11 commission), the GST payable is \$5 (not \$4).



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