

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time

Tax Law Improvement (Substantiation) Bill 1994

(Treasurer)

**A Bill for an Act to amend the law relating to income tax,
and for related purposes**

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax Law Improvement (Substantiation) Act 1994*.

5 **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

3 Amendments of the *Income Tax Assessment Act 1936*

- 10 (1) After Schedule 2 to the *Income Tax Assessment Act 1936* there are inserted the Schedules 2A and 2B set out in Schedule 1 to this Act.
- (2) The *Income Tax Assessment Act 1936* is amended as set out in Schedule 2 to this Act.
- 15 (3) Section 59AAA of the *Income Tax Assessment Act 1936* applies to assessments for the 1994-95 year of income and later years of income.

4 Amendments of the *Income Tax Regulations*

- (1) The *Income Tax Regulations* are amended as set out in Schedule 3 to this Act.
- 20 (2) The amendments made by this section apply to assessments for the 1994-95 year of income and later years of income.

5 Amendments of the *Fringe Benefits Tax Assessment Act 1986*

The *Fringe Benefits Tax Assessment Act 1986* is amended as set out in Schedule 4 to this Act.

Schedule 1

**New Schedules 2A and 2B
to the *Income Tax Assessment Act 1936***

Schedule 2A

Calculating car expense deductions

TABLE OF DIVISIONS

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- 2 Choosing which method to use
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- 11 Definitions of “car”, “car expense”, “holding a car” and “owning a car”

Division 1—Overview of the main points in this Schedule

1-1 Map of this Schedule

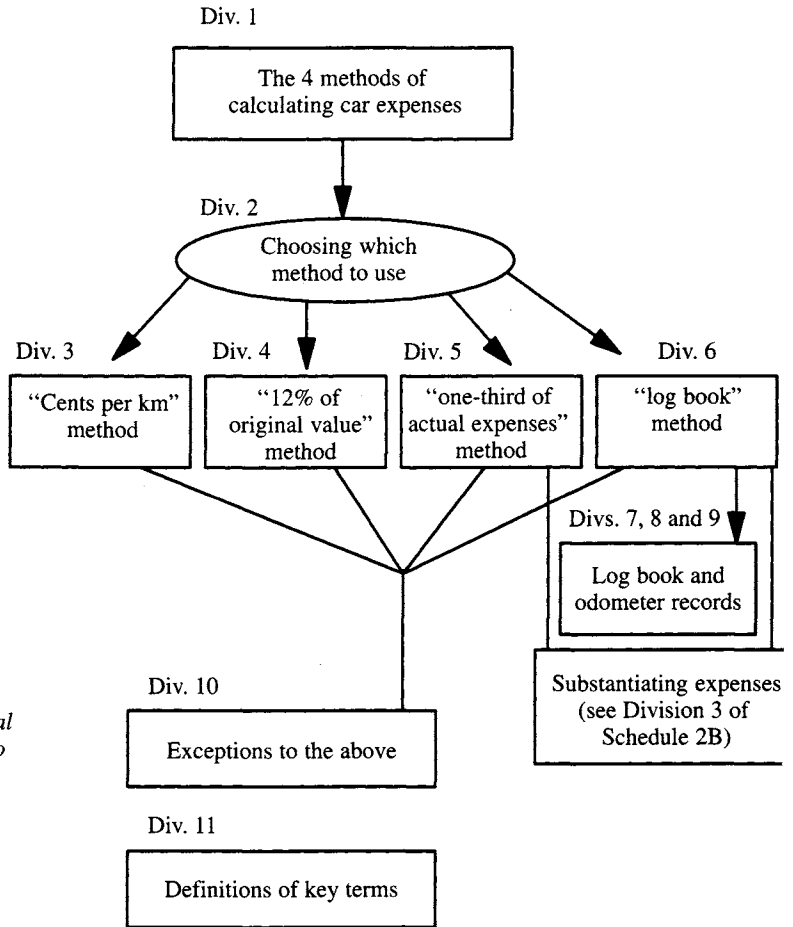
The key principle gives you the main idea of this Schedule.

Choosing the best method is up to you. Hence it is important to understand the methods and how they differ.

The “log book” method is more complicated because it involves further Divisions about log books and odometer records.

The exceptions cover unusual cases which will not apply to most taxpayers.

Definitions are at the back so as not to impede the flow of the main rules.



section 1-2

1-2 Application

- (1) This Schedule applies to you if you are an individual taxpayer.
- (2) It also applies to a partnership that includes at least one individual, as if the partnership were an individual taxpayer.
- (3) It does not apply to an individual as a trustee.

1-3 Key principles

Overall key principle

If you owned or leased a car, you can deduct for the car's expenses an amount or amounts calculated using one of 4 methods.
You must use one of the 4 methods unless an exception applies.
If you can't use any of the methods, you can't deduct anything for the car expenses.

Set out below are the key principles for the 4 methods:

Key principle for the "cents per kilometre" method

You multiply the business kilometres the car travelled (up to a maximum of 5,000) by the number of cents per kilometre for the car, which is found in the regulations.

Key principle for the "12% of original value" method

You deduct 12% of the cost of the car when you acquired it, or 12% of its market value when you began to lease it. However, the car must have travelled more than 5,000 business kilometres in the income year. You cannot deduct more than 12% of the motor vehicle depreciation limit.

Key principle for the “one-third of actual expenses” method

You deduct one-third of each car expense that qualifies as a deduction under this Act. However, the car must have travelled more than 5,000 business kilometres in the income year. You must substantiate the expense under Schedule 2B.

Key principle for the “log book” method

You multiply each deductible car expense by a business use percentage based on a reasonable estimate of the number of business kilometres. You must substantiate the expense under Schedule 2B and keep a log book and odometer records. You don't need to keep a log book every year.

section 2-1

Division 2—Choosing which method to use

2-1 Choosing among the 4 methods

- (1) On the next page is a graphic that gives information about the 4 methods of calculating car expense deductions.

The 4 methods give you the choice of which method best suits your situation and needs.

For instance, some methods will involve more paperwork than others, but could give you bigger deductions. There are also eligibility requirements for some methods, so you need to check that you are eligible to use a particular method.

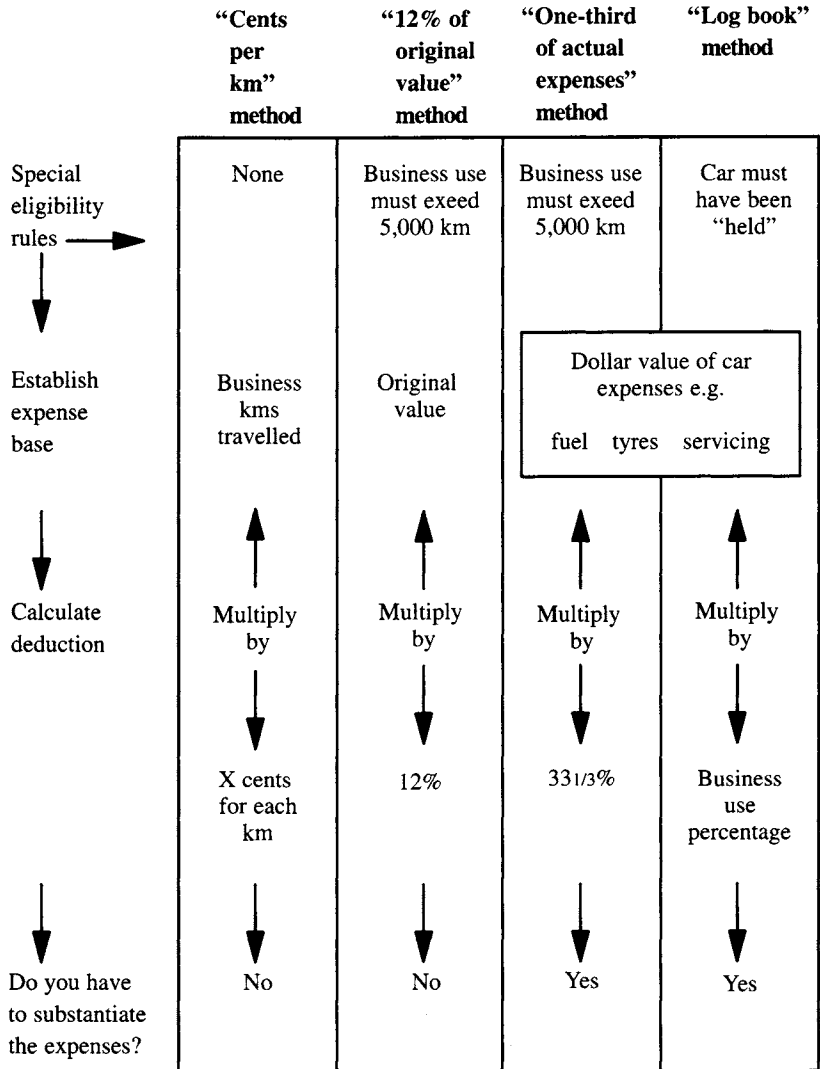
- (2) You can choose only one method for all the car expenses for the car for the income year. Choosing one method precludes any other method.
- (3) However, you can change your choice for the income year.

Example: You choose the “log book” method and deduct \$1,000. On audit, the Commissioner finds that your claim is too high and should be reduced to \$500. You would have been able to deduct \$700 if you had chosen the “cents per kilometre” method. This rule lets you change your choice and deduct the \$700.

- (4) You can also choose different methods for the same car for different income years and different methods for different cars for the same year.

section 2-1

This graphic illustrates the main features of, and the main differences between, the 4 methods:



section 3-1

Division 3—The "cents per kilometre" method

3-1 The key principle

You multiply the business kilometres the car travelled (up to a maximum of 5,000) by the number of cents per kilometre for the car, which is found in the regulations.

3-2 How to calculate your deduction

3-3 Depreciation

3-4 Substantiation

3-2 How to calculate your deduction

- (1) To calculate your deduction using the "cents per kilometre" method, you multiply:
- the number of business kilometres the car travelled in the income year;
- by:
- a number of cents based on the car's engine capacity.

The number of cents can be found in the regulations.

- (2) But you can use this formula for the first 5,000 business kilometres only. If the car travelled more than 5,000 business kilometres, you must discard the kilometres in excess of 5,000.

Example: If the car travelled 5,085 business kilometres, you could claim for 5,000, and would lose the extra 85.

- (3) **Business kilometres** are kilometres the car travelled in the course of producing your assessable income. You calculate the number of business kilometres by making a reasonable estimate.

3-3 Depreciation

If you dispose of the car, or it is lost or destroyed, you will need to refer to the depreciation rules to find out how using this method affects the operation of those rules. See section 59AAA (Disposal, loss or destruction of car for which certain methods have been used to calculate car expense deductions).

3-4 Substantiation

To use this method, you do *not* need to substantiate the car expenses for the car.

section 4-1

Division 4—The "12% of original value" method

4-1 The key principle

You deduct 12% of the cost of the car when you acquired it, or 12% of its market value when you began to lease it. However, the car must have travelled more than 5,000 business kilometres in the income year. You cannot deduct more than 12% of the motor vehicle depreciation limit.

4-2 How to calculate your deduction

4-3 Eligibility

4-4 Depreciation

4-5 Substantiation

4-2 How to calculate your deduction

- (1) Using the "12% of original value" method, you deduct 12% of the cost of the car when you acquired it, or 12% of its market value when you first began to lease it.
- (2) But the most you can deduct using this method is 12% of the motor vehicle depreciation limit for the income year when you first used the car for any purpose (if you own it) or when you first began to lease it.

Note: Section 57AF deals with motor vehicle depreciation limits.

- (3) Your deduction is reduced if you did not own or lease the car for the whole income year. You can only deduct the amount worked out using the formula:

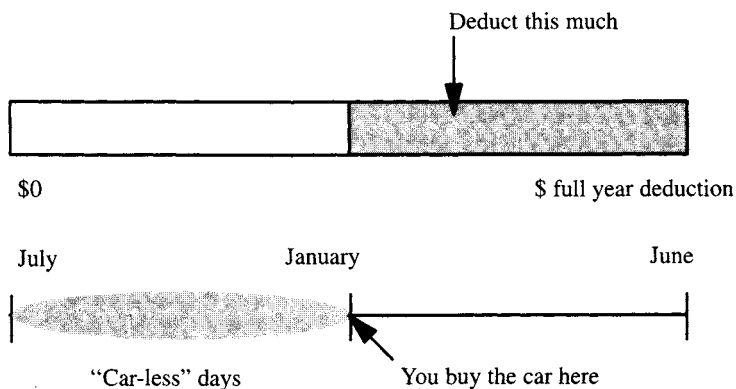
$$\text{full year deduction} \times \frac{(\text{365} - \text{number of car-less days})}{\text{365}}$$

The **full year deduction** is the amount you could deduct if you had owned or leased the car for the whole income year.

A **car-less day** is a day when you did not own or lease the car.

section 4-3

The following graphic shows how the formula works:



4-3 Eligibility

- (1) You can use this method only if the number of business kilometres travelled by the car in the income year was more than 5,000, or would have been if you had used the car throughout the income year.
- (2) **Business kilometres** are kilometres the car travelled in the course of producing your assessable income. You calculate the number of business kilometres by making a reasonable estimate.

4-4 Depreciation

If you dispose of the car, or it is lost or destroyed, you will need to refer to the depreciation rules to find out how using this method affects the operation of those rules. See section 59AAA (Disposal, loss or destruction of car for which certain methods have been used to calculate car expense deductions).

4-5 Substantiation

To use this method, you do *not* need to substantiate the car expenses for the car.

section 5-1

Division 5—The “one-third of actual expenses” method

5-1 The key principle

You deduct one-third of each car expense that qualifies as a deduction under this Act. However, the car must have travelled more than 5,000 business kilometres in the income year. You must substantiate the expense under Schedule 2B.

5-2 How to calculate your deduction

5-3 Eligibility

5-4 Substantiation

5-2 How to calculate your deduction

- (1) Using the “one-third of actual expenses” method, you deduct one-third of each car expense.
- (2) The expense must qualify as a deduction under some provision of this Act outside this Schedule (or would qualify if, throughout the income year, you had used the car only in producing your assessable income). If only part of the expense would qualify, you deduct one-third of that part.

Example: You borrow money to buy a car. You make repayments of principal and payments of interest.

You cannot deduct the repayments of principal because they are capital expenses. The interest payments would be deductible in full if, throughout the income year, you had used the car only in producing your assessable income. Using the “one-third of actual expenses” method, you can deduct one-third of the interest payments.

5-3 Eligibility

- (1) You can use this method only if the number of business kilometres travelled by the car in the income year was more than 5,000, or would have been if you had used the car throughout the income year.

- (2) **Business kilometres** are kilometres the car travelled in the course of producing your assessable income. You calculate the number of business kilometres by making a reasonable estimate.

5-4 Substantiation

To use this method, you must substantiate the expenses under Division 3 of Schedule 2B.

section 6-1

Division 6—The “log book” method

6-1 The key principle

You multiply each deductible car expense by a business use percentage based on a reasonable estimate of the number of business kilometres. You must substantiate the expense under Schedule 2B and keep a log book and odometer records. You don't need to keep a log book every year.

6-2 How to calculate your deduction

6-3 Eligibility

6-4 Substantiation

6-2 How to calculate your deduction

- (1) To use the “log book” method, you multiply the amount of each car expense by the business use percentage.

The expense

- (2) The expense must qualify as a deduction under some provision of this Act outside this Schedule (or would qualify if, while you held the car, you had used it only in producing your assessable income). If only part of the expense would qualify, you multiply that part by the business use percentage.

Example: You borrow money to buy a car. You make repayments of principal and payments of interest.

You cannot deduct the repayments of principal because they are capital expenses.

The interest payments would be deductible in full if, throughout the income year, you had used the car only in producing your assessable income.

Using the “log book” method:

- if you held the car for the whole income year—multiply the interest payments by the business use percentage;
- if you held the car for only 6 months of the income year—multiply the interest payments for those 6 months by the business use percentage.

The percentage

- (3) The business use percentage is calculated by dividing:
- the number of business kilometres that the car travelled in the period when you held it during the income year;

section 6-3

by

- the total number of kilometres that the car travelled in that period;

and expressing the result as a percentage.

Note: For the definition of “holding a car” see section 11-3.

- (4) **Business kilometres** are kilometres the car travelled in the course of producing your assessable income.
- (5) You calculate the number of business kilometres by making a reasonable estimate. The estimate must take into account all relevant matters, including:
 - (a) any log books, odometer records or other records you have; and
 - (b) any variations in the pattern of use of the car; and
 - (c) any changes in the number of cars you used in the course of producing your assessable income.

6-3 Eligibility

You can use this method only if you held the car for some or all of the income year.

Note: For the definition of “holding a car” see section 11-3.

6-4 Substantiation

- (1) To use this method, you must substantiate the car expense under Division 3 of Schedule 2B.
- (2) You must also keep a log book. Division 7 explains:
 - how often you need to keep a log book;
 - how to keep a log book.

The log book is relevant to estimating the number of business kilometres the car travelled in the period when you held it during the income year.

- (3) You must keep odometer records for the period when you held the car during the income year. Division 8 tells you about odometer records, which document the total number of kilometres the car travelled in that period.

section 6-4

- (4) You must record the following information, in writing, before you lodge your income tax return:
- (a) your estimate of the number of business kilometres; and
 - (b) the business use percentage.

However, the Commissioner may allow you to record the information later.

- (5) You must retain the log book and the odometer records.
Division 9 has the rules about this.

Note: For the definition of “holding a car” see section 11-3.

Division 7—Keeping a log book

7-1 The key principle

A log book is relevant to estimating the number of business kilometres the car travelled in the period when you held it during the income year.

These are the steps for keeping a log book:

1. Identify an income year for which to keep a log book.
2. Choose a period of at least 12 weeks for the log book to cover.
3. Record journeys made in the car during the log book period in the course of producing your assessable income.

7-2 Income years for which you need to keep a log book

7-3 Choosing the 12 week period for a log book

7-4 How to keep a log book

7-5 Replacing one car with another

7-2 Income years for which you need to keep a log book

- (1) You need to keep a log book for the first income year for which you use this method for the car.
- (2) Having kept a log book for one income year, you don't need to keep a new one for the next 4 or more income years unless subsection (3) or (4) requires it. If you haven't kept a new log book for 4 income years in a row, you must keep one for the next income year.

Example: If you keep a log book in 1995-96, you would need to keep the next one in 2000-2001, unless subsection (3) or (4) requires one sooner.

- (3) You must keep a log book for an income year if the Commissioner sends you a notice before the year directing you to keep a log book for the car for that year.

section 7-3

- (4) You must keep a log book for an income year if, during that year, you get one or more additional cars for which you want to use the “log book” method for that year.
- (5) When you replace one car with another, you might have a period when you hold both the new car and the old car, or a period when you no longer hold the old car but do not yet hold the new car. In both these cases, you are treated for the purposes of subsection (4) as if you held the one car continuously.
Note: For the definition of “holding a car” see section 11-3.
- (6) You may choose to keep a log book for an income year even if you don’t need to; for example, because you want to establish a higher business use percentage.

7-3 Choosing the 12 week period for a log book

- (1) The log book must cover a continuous period of at least 12 weeks throughout which you held the car. If you hold the car for less than 12 weeks, the period must be the entire period for which you held the car.
Note: For the definition of “holding a car” see section 11-3.
- (2) The period may overlap the start or end of the income year, so long as it includes part of the year.
- (3) If you want to use the “log book” method for 2 or more cars for the same income year, the log books for those cars must cover periods that are concurrent.

7-4 How to keep a log book

- (1) It is in your interests to record in the log book any journey made in the car during the log book period in the course of producing your assessable income. If a journey is not recorded, the log book will indicate a lower business use percentage than is actually the case.
 - (2) A journey is recorded by making in the log book an entry specifying:
 - (a) the day the journey began and the day it ended;
 - (b) the car’s odometer readings at the start and end of the journey;
-

section 7-5

- (c) how many kilometres the car travelled on the journey;
- (d) why the journey was made.

The record must be made at the end of the journey or as soon as possible afterwards.

- (3) If 2 or more journeys in a row are made in the car on the same day in the course of producing your assessable income, they can be recorded as a single journey.
- (4) The following must be entered in the log book:
 - (a) when the log book period begins and ends;
 - (b) the car's odometer readings at the start and the end of the period;
 - (c) the total number of kilometres that the car travelled during the period;
 - (d) the number of kilometres that the car travelled, in the course of producing your assessable income, on journeys recorded in the log book;
 - (e) the number of kilometres referred to in paragraph (d), expressed as a percentage of the total number referred to in paragraph (c).

Each of the entries must be made at or as soon as possible after the start or end of the period, as appropriate.

- (5) Each entry in the log book must be in English.

7-5 Replacing one car with another

- (1) For the purposes of using the "log book" method, you may nominate one car as having replaced another car with effect from a day specified in the nomination.
- (2) After the nomination takes effect, the replacement car is treated as the original car, and the original car is treated as a different car. This means that you do not need to repeat for the replacement car the steps you have already taken for the original car under this Division.

section 7-5

- (3) You must record the nomination in writing before you lodge your income tax return for the income year in which the nomination takes effect. However, the Commissioner may allow you to do it later.
- (4) You must retain the nomination document until the end of the period for which you must retain the last log book that you began to keep for the original car before the day of effect of the nomination.
- (5) Section 9-2 applies to the nomination document in the same way as it applies to that last log book.

Division 8—Odometer records for a period

8-1 The key principle

Odometer records document the total number of kilometres the car travelled during a particular period. They also record the car's engine capacity and other details.

8-2 How to keep odometer records for a car for a period

- (1) Odometer records for a period are kept in the form of a document in which the following are entered:
 - (a) the car's odometer readings at the start and the end of the period;
 - (b) if a nomination under section 7-5 (Replacing one car with another) affects the car with effect from a day in that period—the odometer readings, at the end of that day, of both cars affected by the nomination.
 - (2) Each entry under subsection (1) must be in English and must be made at or as soon as possible after the start or end of the period, or the end of the specified day, as appropriate.
 - (3) The following must also be entered in the document:
 - (a) the car's make, model and registration number (if any);
 - (b) if the car has an internal combustion engine—its engine capacity expressed in cubic centimetres;
 - (c) if a nomination under section 7-5 (Replacing one car with another) affects the car—the corresponding details for the other car affected by the nomination.
 - (4) Each entry under subsection (3) must be made in English and must be made before you lodge your income tax return.
 - (5) The Commissioner may allow you to make an entry under this section after you lodge your income tax return.
-

section 9-1

Division 9—Retaining the log book and odometer records

9-1 The key principle

You must retain a log book and odometer records for a period that ends 5 years after a day determined under this Division. In the case of a log book, the 5 years do not start until after the latest income year for which you rely on the log book to support your calculation of the business use percentage for the car.

9-2 Retaining the log book for the retention period

9-3 Retaining odometer records

9-2 Retaining the log book for the retention period

- (1) You must retain the log book:
 - (a) first, until the end of the latest income year for which you rely on the log book to support your calculation of the business use percentage for the car; and
 - (b) then for another 5 years.

The period for which you must retain the log book is called the **retention period**.

- (2) The 5 years start on the due day for lodging your income tax return for that latest income year. If you lodge your return later, the 5 years start on the day you lodge it.
- (3) However, the retention period is extended if, when the 5 years end, you are involved in a dispute with the Commissioner that relates to a deduction worked out using a business percentage that you are relying on the log book to support. See section 7-2 of Schedule 2B.
- (4) If you do not retain the log book for the retention period, you cannot deduct any amount worked out using a business percentage that you are relying on the log book to support. If you have already deducted such an amount, your assessment may be amended to disallow the deduction.

section 9-3

- (5) For the purposes of the rules about retaining and producing records of expenses (see Division 7 of Schedule 2B), the log book is treated as a record of the car expenses for each year for which you use a business percentage that you are relying on the log book to support.
- (6) If you lose the log book, there are rules that might help you in section 8-3 of Schedule 2B. For the purposes of the rules about relief from the effects of failing to substantiate (see Division 8 of Schedule 2B), not doing something required by this Division is treated in the same way as not doing something necessary to follow the rules in Schedule 2B.

9-3 Retaining odometer records

- (1) You must retain your odometer records relating to the period when you held the car in the income year.
Note: For the definition of "holding a car" see section 11-3.
- (2) If you keep a log book for the income year, you must retain the odometer records for the same period as the log book, and section 9-2 applies to them in the same way as it applies to the log book.
- (3) If you don't keep a log book for the income year, you must retain the odometer records for the same period as written evidence of a car expense for the car for the income year, and section 3-3 of Schedule 2B applies to them in the same way as it applies to written evidence of an expense.

section 10-1

Division 10—Situations where you don't need to use one of the 4 methods

10-1 The key principle

In certain situations you don't need to use any of the 4 methods, because it would be unusually onerous or otherwise inappropriate. These situations involve either the nature of your car or the way you use it.

10-2 Exception for particular cars used in particular ways

10-3 Further miscellaneous exceptions

10-4 Car expenses related to award transport payments

10-2 Exception for particular cars used in particular ways

- (1) For particular types of cars used in particular ways you don't need to use one of the 4 methods to calculate your deductions for car expenses.
- (2) You *may* use one of the 4 methods, or you may instead calculate the deductions under the normal principles governing deductions, including the rules for apportioning an expense that is only partly attributable to producing assessable income.
- (3) This section applies if, whenever you used the car in the income year:
 - (a) the car was covered by the description in column 2 of an item in the table below; and
 - (b) you used the car as described in column 3 of that item.

section 10-2

Item	Column 2 Particular car	Column 3 Exempt use
1.	The car was: (a) a panel van or utility truck; or (b) any other road vehicle designed to carry a load of less than 1 tonne (other than a vehicle designed principally to carry passengers); or (c) a taxi.	You used the car only in one or more of the following ways: (a) in the course of producing your assessable income; (b) to go between your residence and a place where you use the car in the course of producing your assessable income; (c) by providing the car to someone else to drive between his or her residence and a place where the car is used in the course of producing your assessable income; (d) for the purpose of travel that is incidental to using the car in the course of producing your assessable income; (e) for your own or someone else's private use that was minor, infrequent and irregular.
2.	The car was part of the trading stock of a business of selling cars that you carried on.	You used the car in the course of the business.
3.	The car was any type of car.	You let the car on lease or hire in the course of a business of letting cars on lease or hire that you carry on.
4.	The car was any type of car.	As an employer (as defined in section 221A), you provided the car for the exclusive use of one or more of the following: (a) your employees (as defined in section 221A); (b) their relatives; in circumstances where one or more of them was entitled to use the car for private purposes.

section 10-3

10-3 Further miscellaneous exceptions

- (1) This section lists some miscellaneous cases where you don't need to use one of the 4 methods to calculate your deductions for car expenses.
- (2) You *may* use one of the 4 methods, or you may instead calculate the deductions under the normal principles governing deductions, including the rules for apportioning an expense that is only partly attributable to producing assessable income.
- (3) The cases are as follows:
 - (a) the car was unregistered throughout the period when you held it during the income year, and during that period you used the car principally in the course of producing your assessable income; or
 - (b) at some time during the income year the car was part of the trading stock of a business of selling cars that you carried on, and you didn't use the car at any time during that year; or
 - (c) the expense is to do with repairs to or other work on the car, and you incurred it in the course of a business that you carried on of doing repairs or other work on cars.

In applying paragraph (a), the car is taken to be registered in a particular place while it is lawful to drive the car on a public road there.

Note: For the definition of "holding a car" see section 11-3.

10-4 Car expenses related to award transport payments

- (1) Division 9 of Schedule 2B (Award transport payments) allows certain expenses to be deducted without getting written evidence. The expenses are transport expenses related to an allowance or reimbursement paid or payable to you by your employer under an industrial instrument that was in force on 29 October 1986.
- (2) If that Division lets you deduct car expenses, or parts of car expenses, without getting written evidence, you don't need to use any of the 4 methods to calculate your deductions for those expenses or parts of expenses.

section 10-4

- (3) However, your use of the 4 methods for *other* car expenses you incur for the car for the income year is affected, unless you elect not to rely on Division 9 of Schedule 2B. Section 9-9 of Schedule 2B deals with this matter.

section 11-1

*Division 11—Definitions of "car", "car expense",
"holding a car" and "owning a car"*

11-1 Definition of "car"

11-2 Definition of "car expense"

11-3 Definition of "holding a car"

11-4 Definition of "owning a car"

11-1 Definition of "car"

- (1) A **car** is a motor vehicle (including a four-wheel drive vehicle) of any of these kinds:
 - (a) a motor car, station wagon, panel van, utility truck or similar vehicle (except a panel van or utility truck designed to carry a load of 1 tonne or more); or
 - (b) any other road vehicle designed to carry a load of less than 1 tonne or fewer than 9 passengers.
- (2) None of the following is a car:
 - (a) a motor cycle or similar vehicle;
 - (b) a taxi taken on hire.
- (3) A motor vehicle is not a car if it is taken on hire under an agreement of a kind ordinarily entered into by people who take motor vehicles on hire intermittently, as the occasion requires, on an hourly, daily, weekly or short-term basis, unless the motor vehicle:
 - (a) has been taken on hire under successive agreements of a kind that result in substantial continuity of the motor vehicle being taken on hire; or
 - (b) it is reasonable to expect that the motor vehicle will be taken on hire under successive agreements of a kind that will so result.

11-2 Definition of "car expense"

- (1) A **car expense** is an expense to do with a car.
-

section 11-3

- (2) In addition, any of the following is a car expense:
 - (a) an expense to do with operating a car;
 - (b) depreciation of a car.
- (3) None of the following is a car expense:
 - (a) an expense incurred, or a payment made, in respect of travel outside Australia;
 - (b) a taxi fare or similar expense.

11-3 Definition of "holding a car"

You **hold** a car while you own it, or it is leased to you, for use in the course of producing your assessable income, even if it is also used for some other purpose.

11-4 Definition of "owning a car"

If you hire a car under a hire-purchase agreement, you are treated as the owner of the car for the purposes of this Schedule.

Schedule 2B

Substantiation rules

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Division 1—Introduction

1-1 The key principle

To deduct certain types of expense, you need to substantiate them under this Schedule:

For this type of expense see:
• work expenses	Division 2
• car expenses	Division 3
• business travel expenses	Division 4

There are exceptions to these requirements:

- Division 2 has some specific exceptions about work expenses.
- Division 8 provides for relief from the effects of failing to substantiate.
- Division 9 has an exception about certain expenses related to award transport payments.

1-2 Application

- (1) This Schedule applies to you if you are an individual taxpayer.
- (2) It also applies to a partnership that includes at least one individual, as if the partnership were an individual taxpayer.
- (3) It does not apply to an individual as a trustee.

section 2-1

Division 2—Substantiating work expenses

2-1 The key principle

To deduct a work expense:

- (a) it must qualify as a deduction under some provision of this Act outside this Schedule; and
- (b) you need to substantiate it by getting written evidence and retaining that evidence for 5 years.

For some expenses for travel you also need to keep travel records.

There are exceptions where you don't need to get written evidence:

- (c) if the only work expenses you claim (except of certain kinds) total \$300 or less;
- (d) up to \$150 of laundry expenses, even if your work expenses total more than \$300;
- (e) expenses related to certain award transport payments;
- (f) reasonable expenses covered by a travel allowance, except accommodation expenses for overseas travel;
- (g) reasonable expenses covered by an overtime meal allowance.

Note: Even if you don't need to substantiate a work expense under this Division, there may be situations where you still need to be able to show that you incurred it.

2-2 Meaning of “work expense”

2-3 Getting written evidence

2-4 Retaining the written evidence

2-5 Exception for small total of expenses

2-6 Exception for laundry expenses below a certain limit

2-7 Exception for work expense related to award transport payment

2-8 Exception for domestic travel allowance expenses

2-9 Exception for overseas travel allowance expenses

2-10 Exception for reasonable overtime meal allowance

2-11 Crew members on international flights need not keep travel records

2-2 Meaning of “work expense”

General

- (1) A **work expense** is an expense you incur in producing your salary or wages.

Travel allowance expenses included

- (2) Travel allowance expenses count as work expenses. A **travel allowance expense** is an expense you incur for travel that is covered by a travel allowance. The expense must:
- (a) be for accommodation or for food or drink; or
 - (b) be incidental to the travel.
- (3) A **travel allowance** is an allowance your employer pays or is to pay to you to cover expenses:
- (a) that you incur for travel away from your ordinary residence that you undertake in the course of your duties as an employee; and
 - (b) that are expenses for accommodation or for food or drink, or are incidental to the travel.

The travel may be within or outside Australia.

Meal allowance expenses included

- (4) Meal allowance expenses count as work expenses. A **meal allowance expense** is an expense that you incur for food or drink that is covered by a meal allowance.
- (5) A **meal allowance** is an allowance that your employer pays or is to pay to you as an employee to enable you to buy food or drink. However, an allowance is not a meal allowance if it is a travel allowance or part of one.
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section 2-3

Motor vehicle expenses excluded

- (6) An expense to do with a motor vehicle (including a four-wheel drive vehicle) is not treated as a work expense unless it is:
- (a) an expense incurred, or a payment made, in respect of travel outside Australia; or
 - (b) a taxi fare or similar expense.

However, most motor vehicle expenses are covered by the rules about car expenses. See Schedule 2A and Division 3 of this Schedule.

Other types of expense included

- (7) In addition to expenses within the general scope of subsection (1), any of the following is a work expense:
- (a) depreciation of property you own and that is used, or is installed ready for use, by you in order to produce your salary or wages;
 - (b) an expense you incur that qualifies as a deduction under section 74 (Election expenses of candidates for Parliament) or 74A (Election expenses of candidates for local governments).

Non-deductible expenses excluded

- (8) An expense is not a work expense unless it qualifies as a deduction under some provision of this Act outside this Schedule.

“Salary or wages”, “employer” and “employee”

- (9) In this Division, “**salary or wages**”, “**employer**” and “**employee**” have the meanings given by section 221A.

2-3 Getting written evidence

- (1) To deduct a work expense, you need to substantiate it by getting written evidence. Division 5 tells you about the evidence you need.
- (2) In addition, you need to keep travel records if your expense is for travel that involves you being away from your ordinary residence for 6 or more nights in a row.

section 2-4

The travel may be within or outside Australia. Division 6 tells you about travel records.

- (3) However, members of international flight crews may be exempt from keeping travel records for expenses covered by travel allowances: see section 2-11.
- (4) If your expense is for fuel or oil, you have a choice of either:
 - (a) getting written evidence of it under Division 5; or
 - (b) keeping odometer records for the period when you owned or leased the car in the income year.

Division 8 of Schedule 2A tells you about odometer records.

2-4 Retaining the written evidence

- (1) Once you have the material required by section 2-3, you must retain it for 5 years. There is no need to lodge it with your income tax return. The Commissioner may require you to produce it: see Division 7. The period for which you must retain it is called the **retention period**.
- (2) The 5 years start on the due day for lodging your income tax return for the income year. If you lodge your return later, the 5 years start on the day you lodge it.
- (3) However, the retention period is extended if, when the 5 years end, you are involved in a dispute with the Commissioner that relates to the expense. See section 7-2.
- (4) If you do not retain the material for the retention period, you cannot deduct the expense. If you have already deducted it, your assessment may be amended to disallow the deduction.
- (5) If you lose any of the material, there are rules that might help you in section 8-3.

section 2-5

2-5 Exception for small total of expenses

- (1) If the total of all the work expenses (including laundry expenses, but excluding travel allowance expenses and meal allowance expenses) that you want to deduct is \$300 or less, you can deduct them without getting written evidence or keeping travel records.

Notes: 1. If the total is more than \$300, you need to substantiate *all* the work expenses, not just the excess over \$300.

2. Whether or not your work expenses total \$300 or less, for certain expenses that are each \$10 or less and total \$200 or less you can get written evidence by making your own record, instead of getting a document from the supplier: see section 5-6.

- (2) This limit can be increased from time to time by regulations made under section 266.
- (3) An expense that Division 9 (Award transport payments) lets you deduct without following the rules in this Schedule does not count towards this limit.

2-6 Exception for laundry expenses below a certain limit

- (1) Even if the work expenses you claim total more than \$300, you can still deduct up to \$150 of laundry expenses without getting written evidence of them.
- (2) However, this exception does not increase the \$300 limit in section 2-5 to \$450: your laundry expenses still count toward that limit.

Example: You want to deduct laundry expenses of \$140 and union dues of \$200. These work expenses total more than \$300, so the exception in section 2-5 doesn't apply. This means you must substantiate the union dues expense. However, because of the exception in this section, you don't need to get written evidence of the laundry expenses.

- (3) This limit can be increased from time to time by regulations made under section 266.
- (4) A **laundry expense** is a work expense to do with washing, drying or ironing clothes (but not dry cleaning).

section 2-7

2-7 Exception for work expense related to award transport payment

You may be able to deduct, without getting written evidence or keeping travel records, a transport expense you incurred that is related to an allowance or reimbursement paid or payable to you by your employer under an industrial instrument that was in force on 29 October 1986. Division 9 tells you about this.

2-8 Exception for domestic travel allowance expenses

- (1) You can deduct a travel allowance expense for travel within Australia without getting written evidence or keeping travel records if the Commissioner considers reasonable the total of the expenses you claim for travel covered by the allowance.
- (2) In deciding whether the total of the expenses you claim is reasonable, the Commissioner must take into account the total of the expenses of the following kinds that it would be reasonable for you to incur for the travel:
 - (a) accommodation;
 - (b) food or drink;
 - (c) expenses incidental to the travel.

2-9 Exception for overseas travel allowance expenses

- (1) You can deduct a travel allowance expense for travel outside Australia without getting written evidence under the same conditions as for domestic travel allowances, except that you still have to get written evidence for accommodation expenses.
 - (2) Consequently, in deciding whether the total of the expenses you claim is reasonable, the Commissioner must disregard accommodation expenses.
 - (3) However, for overseas travel covered by a travel allowance you must still keep travel records if the travel involves you being away from your ordinary residence for 6 or more nights in a row: Division 6 tells you about travel records.
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section 2-10

2-10 Exception for reasonable overtime meal allowance

You can deduct a meal allowance expense without getting written evidence if:

- (a) the allowance is to enable you to buy food or drink in connection with overtime that you work; and
- (b) the allowance is paid or payable to you under:
 - (i) a law of the Commonwealth or of a State or Territory; or
 - (ii) an award, order, determination or industrial agreement in force under such a law; and
- (c) the Commissioner considers reasonable the total of the expenses you claim that are covered by the allowance.

2-11 Crew members on international flights need not keep travel records

You can deduct a travel allowance expense without keeping travel records if:

- (a) the allowance covers travel by you as a crew member of an aircraft; and
- (b) the travel is principally outside Australia; and
- (c) the total of the expenses you claim for the travel that are covered by the allowance does not exceed the allowance.

Division 3—Substantiating car expenses

3-1 The key principle

For the “one-third of actual expenses” method or the “log book” method of deducting a car expense, you need to substantiate the expense by getting written evidence and retaining it for 5 years.

3-2 Getting written evidence

3-3 Retaining the written evidence and odometer records

3-2 Getting written evidence

- (1) For the “one-third of actual expenses” method or the “log book” method of deducting a car expense, you need to substantiate the expense by getting written evidence. Division 5 tells you about the evidence you need.
- (2) If you are using the “one-third of actual expenses” method and your expense is for fuel or oil, you have a choice of either:
 - (a) getting written evidence of it under Division 5; or
 - (b) keeping odometer records for the period when you owned or leased the car in the income year.

Division 8 of Schedule 2A tells you about odometer records.

- (3) If you are using the “log book” method and your expense is for fuel or oil, you do not need to get written evidence of it, because section 6-4 of Schedule 2A already requires you to keep odometer records for the period when you held the car in the income year.

Note: For the definition of “holding a car” see section 11-3 of Schedule 2A.

3-3 Retaining the written evidence and odometer records

- (1) Once you have the material required by this Division, you must retain it for 5 years. There is no need to lodge it with your income tax return. The Commissioner may require you to produce it: see Division 7. The period for which you must retain it is called the **retention period**.

section 3-3

- (2) The 5 years start on the due day for lodging your income tax return for the income year. If you lodge your return later, the 5 years start on the day you lodge it.
- (3) However, the retention period is extended if, when the 5 years end, you are involved in a dispute with the Commissioner that relates to the expense. See section 7-2.
- (4) If you do not retain the material for the retention period, you cannot deduct the expense. If you have already deducted it, your assessment may be amended to disallow the deduction.
- (5) If you lose any of the material, there are rules that might help you in section 8-3.

Division 4—Substantiating business travel expenses

4-1 The key principle

To deduct a business travel expense:

- (a) it must qualify as a deduction under some provision of this Act outside this Schedule; and
- (b) you need to substantiate the expense by getting written evidence and retaining that evidence for 5 years; and
- (c) you also need to keep travel records if the travel involves your being away from home for 6 or more nights in a row.

But you do not need to get written evidence of expenses for travel that does not involve you being away from home overnight.

4-2 Meaning of “business travel expense”

4-3 Getting written evidence

4-4 Retaining the written evidence

4-2 Meaning of “business travel expense”

General

- (1) A **business travel expense** is a travel expense, in so far as you incur it in producing your assessable income other than salary or wages.

“Travel expense”

- (2) An expense is a **travel expense** if you incur it for travel by you that involves you being away from your ordinary residence for at least one night. The travel may be within or outside Australia.

Salary and wages travel expenses excluded

- (3) In so far as you incur travel expenses in producing your salary and wages, the expenses are not treated as business travel expenses. Instead, they are dealt with as work expenses in Division 2.

section 4-3

Travel allowance expenses excluded

- (4) Travel allowance expenses are not treated as business travel expenses. They too are dealt with as work expenses in Division 2.

Motor vehicle expenses excluded

- (5) An expense to do with a motor vehicle (including a four-wheel drive vehicle) is not treated as a business travel expense unless it is:
- (a) an expense incurred, or a payment made, in respect of travel outside Australia; or
 - (b) a taxi fare or similar expense.

However, most motor vehicle expenses are covered by the rules about car expenses. See Schedule 2A and Division 3 of this Schedule.

Non-deductible expenses excluded

- (6) An expense is not a business travel expense unless it qualifies as a deduction under some provision of this Act outside this Schedule.

“Salary or wages”

- (7) In this Division, “**salary or wages**” has the same meaning as in section 221A.

4-3 Getting written evidence

- (1) To deduct a business travel expense, you need to substantiate it by getting written evidence. Division 5 tells you about the evidence you need.
- (2) In addition, you need to keep travel records if your expense is for travel that involves you being away from your ordinary residence for 6 or more nights in a row. Division 6 tells you about travel records.
- (3) If your expense is for fuel or oil, you have a choice of either:
 - (a) getting written evidence of it under Division 5; or

- (b) keeping odometer records for the period when you owned or leased the car in the income year.

Division 8 of Schedule 2A tells you about odometer records.

4-4 Retaining the written evidence

- (1) Once you have the material required by section 4-3, you must retain it for 5 years. There is no need to lodge it with your income tax return. The Commissioner may require you to produce it: see Division 7. The period for which you must retain it is called the **retention period**.
- (2) The 5 years start on the due day for lodging your income tax return for the income year. If you lodge your return later, the 5 years start on the day you lodge it.
- (3) However, the retention period is extended if, when the 5 years end, you are involved in a dispute with the Commissioner that relates to the expense. See section 7-2.
- (4) If you do not retain the material for the retention period, you cannot deduct your expense. If you already have deducted it, your assessment may be amended to disallow the deduction.
- (5) If you lose any of the material, there are rules that might help you in section 8-3.

section 5-1

Division 5—Written evidence

5-1 The key principle

If you have to get written evidence to support a claim for a deduction, you must use one of the following ways:

- (a) evidence from the supplier;
- (b) evidence you record yourself for:
 - small expenses; or
 - expenses considered otherwise too hard to substantiate;
- (c) evidence on a group certificate.

5-2 Choosing a way

5-3 Time limits

5-4 Written evidence from supplier

5-5 Written evidence of depreciation expense

5-6 Evidence of small expenses

5-7 Evidence of expenses considered otherwise too hard to substantiate

5-8 Evidence on a group certificate

5-2 Choosing a way

Each of the following sections has a set of rules for a particular way of getting written evidence. Which ones you can use depends on the type of expense. You only need to use one set of rules to support an expense.

5-3 Time limits

- (1) There is no time limit for getting written evidence of an expense (unless you want to record the expense yourself under section 5-6 or 5-7). But until you get written evidence of it, you are not entitled to a deduction for the expense.

section 5-4

- (2) If when you lodge your income tax return for the income year you have good reason to expect to get written evidence of the expense within a reasonable time, you can deduct the expense without actually getting the evidence. But if you don't get the evidence within a reasonable time, your entitlement to the deduction ceases. If you have already deducted the expense, your assessment may be amended to disallow the deduction.
- (3) Even if you only get written evidence of the expense *after* the end of the income year, you deduct the expense for that income year, not the income year in which you get the evidence.

5-4 Written evidence from supplier

- (1) You may use this set of rules for any type of expense except depreciation.
 - (2) You must get a document from the supplier of the goods or services the expense is for. The document must set out:
 - (a) the name or business name of the supplier; and
 - (b) the amount of the expense, expressed in the currency in which it was incurred; and
 - (c) the nature of the goods or services; and
 - (d) the day the expense was incurred; and
 - (e) the day it is made out.
 - (3) There are 2 exceptions to these requirements:
 - (a) if the document does not show the day the expense was incurred, you may use a bank statement or other reasonable, independent evidence that shows when it was paid;
 - (b) if the document the supplier gave you does not specify the nature of the goods or services, you may write in the missing details yourself before you lodge your income tax return for the income year.
 - (4) The document must be in English. However, if the expense was incurred in a country outside Australia, the document can instead be in a language of that country.
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section 5-5

5-5 Written evidence of depreciation expense

- (1) You may use this set of rules only for a depreciation expense.
- (2) You must get evidence of the original acquisition of the depreciating property. It must be a document that you get from the supplier of the property and that specifies:
 - (a) the name or business name of the supplier; and
 - (b) the cost of the property to you; and
 - (c) the nature of the property; and
 - (d) the day you acquired the property; and
 - (e) the day it is made out.
- (3) However, if the document the supplier gave you does not specify the nature of the property, you may write in the missing details yourself before you lodge your income tax return for the income year in which you first claim a deduction for depreciation of the property.
- (4) If you don't get the document in time, for example because you only decided to use the property for income-producing purposes several years after you acquired it, there are rules that might help you in Division 8.
- (5) The document must be in English. However, if you imported the property into Australia, the document can instead be in a language of the country from which the property was originally exported.

5-6 Evidence of small expenses

- (1) If your expense is small, and you have a small total of small expenses, you can make a record of the expenses instead of getting a document from the supplier.
- (2) Each expense must be \$10 or less, and the total of all your expenses that:
 - (a) are each \$10 or less; and
 - (b) you incurred in the income year and wish to deduct; and
 - (c) you must get written evidence for under this Schedule;must be \$200 or less. These limits can be increased from time to time by regulations made under section 266.

section 5-7

- (3) If the expense is not depreciation, you must get a document with the same information as required by section 5-4, except that you may create the document and record all the details yourself. You must do so as soon as possible after incurring the expense.
- (4) If the expense is depreciation, you must, as soon as possible after the last day of the income year, record in a document the following:
 - (a) the nature of the property;
 - (b) the amount of the depreciation;
 - (c) who made the record;
 - (d) the day the record is made.
- (5) A record must be in English.

5-7 Evidence of expenses considered otherwise too hard to substantiate

- (1) If the Commissioner considers it unreasonable to expect you to have got written evidence of an expense in any other way permitted by this Division, you can use the method in section 5-6 to get written evidence of your claim.
- (2) The expense may be more than \$10 and does not count towards the \$200 limit in section 5-6.

5-8 Evidence on a group certificate

- (1) If the nature and amount of a work expense are shown on your copy of a group certificate given to you by your employer (as defined in section 221A), you can use the copy as written evidence of the expense.
- (2) Expenses of the same nature need not be separately itemised; it is acceptable if they are totalled together on the certificate.

section 6-1

Division 6—Travel records

6-1 The key principle

A travel record is a record of activities you undertake during your travel. (It is not a record of expenses you incurred during the travel: the rules in Division 5 about written evidence cover that.)

The purpose of a travel record is to show which of your activities were undertaken in the course of producing your assessable income, so that your expenses, or portions of them, can be attributed to income-producing purposes.

6-2 Recording activities in travel records

6-3 Showing which of your activities were income-producing activities

6-2 Recording activities in travel records

- (1) You record an activity by specifying in a diary or similar document:
 - (a) the nature of the activity;
 - (b) the day and approximate time when it began;
 - (c) how long it lasted;
 - (d) where you engaged in it.
- (2) An activity must be recorded before it ends, or as soon as possible afterwards. Each entry must be in English.

6-3 Showing which of your activities were income-producing activities

- (1) You need not record an income-producing activity. But if you don't, the activity cannot be taken into account in working out the extent to which you can deduct an expense you incur for the travel.

section 6-3

Example: If you fly to Los Angeles for the sole purpose of attending a 7 day conference, but you don't record the conference in your travel record, you cannot deduct the cost of the air fare. This is so even if you have written evidence that you paid the fare (eg a receipt), as required by Division 5.

- (2) You don't need to record any other kind of activity, although you may do so.

section 7-1

Division 7—Retaining and producing records

7-1 The key principle

Whenever you are required to retain records of an expense under this Schedule or Schedule 2A, you need to retain the records for 5 years. This period is extended if, when the 5 years end, you are involved in a dispute with the Commissioner that relates to the expense. At any time during the period, the Commissioner may tell you to produce your records.

7-2 Extending the 5 years if an expense is disputed

7-3 Commissioner may tell you to produce your records

7-4 How to comply with a notice

7-5 What happens if you don't comply

7-2 Extending the 5 years if an expense is disputed

The retention period is automatically extended if one of the following types of dispute relating to the expense is unresolved when the 5 years end:

- (a) an objection; or
- (b) a review or appeal arising from an objection; or
- (c) a request for amendment of an assessment.

The extension lasts until the dispute is resolved.

7-3 Commissioner may tell you to produce your records

- (1) The Commissioner may give you a written notice telling you to produce records of expenses specified in the notice. The records must be ones that you have to retain for the retention period: you do not have to produce records if the retention period for those records is over.
 - (2) The notice must give you 28 days or more to comply, starting on the day after the notice is given. The Commissioner may allow you more time to comply with the notice.
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section 7-4

7-4 How to comply with a notice

- (1) To comply with the notice, you must produce to the Commissioner, for each of the expenses, the material that this Schedule or Schedule 2A requires you to retain during the retention period.
- (2) You must also produce a summary that, for each expense for which you produce written evidence (see Division 5):
 - (a) notes the expense; and
 - (b) has a cross-reference to the written evidence of the expense; and
 - (c) summarises the particulars set out in the written evidence; and
 - (d) if the expense was in a foreign currency—shows the amount of the expense in Australian currency.

The summary must be in English in a form approved by the Commissioner.

7-5 What happens if you don't comply

- (1) If you do not comply with a notice for a particular expense, you cannot deduct the expense. If you have already deducted it, your assessment may be amended to disallow the deduction.
- (2) You do not commit an offence merely by not complying with the notice, despite section 8C of the *Taxation Administration Act 1953*.

section 8-1

Division 8—Relief from effects of failing to substantiate

8-1 Commissioner's discretion to review failure to substantiate

8-2 Reasonable expectation that substantiation would not be required

8-3 What if your documents are lost or destroyed?

8-1 Commissioner's discretion to review failure to substantiate

Not doing something necessary to follow the rules in this Schedule does not affect your right to a deduction if the nature and quality of the evidence you have to substantiate your claim satisfies the Commissioner:

- (a) that you incurred the expense; and
- (b) that you are entitled to deduct the amount you claim.

8-2 Reasonable expectation that substantiation would not be required

Not doing something necessary to follow the rules in this Schedule does not affect your right to deduct an amount if the only reason was that you had a reasonable expectation that you would not need to do it in order to be able to deduct that amount.

8-3 What if your documents are lost or destroyed?

- (1) If you have a *complete copy* of a document that is lost or destroyed during the retention period, it is treated as the original from the time of the loss or destruction.
- (2) If you don't have such a copy, but the Commissioner is satisfied that you took reasonable precautions to prevent the loss or destruction, the rest of this section explains what to do.
- (3) If the lost or destroyed document was a travel record, log book or other document that is *not* written evidence of an expense under Division 5, you do not need to replace it; your deduction is not affected by your failing to retain or produce the document.

section 8-3

- (4) If the lost or destroyed document *was* written evidence, you must try to get a substitute document that meets all the original requirements (except the time limit for getting the original).
- (5) If you succeed, your deduction is not affected by your failing to retain or produce the original document. The substitute document is treated as the original from the time of the loss or destruction.
- (6) If it is not reasonably possible to succeed, your deduction is not affected by your failing to retain or produce the original document.
- (7) If it is reasonably possible for you to get a substitute document, but you don't get one, this section does not protect you from the consequences of failing to retain or produce the original.

section 9-1

Division 9—Award transport payments

9-1 The key principle

You can deduct an expense related to an award transport payment without getting written evidence or keeping travel records.

But for each payment, you must limit the total of your claims to no more than the payment you would have received under the award as in force on 29 October 1986. (Some changes made to an award after 29 October 1986 are treated as if they had been made on that day.)

Also, the expense must qualify as a deduction under some provision of this Act outside this Schedule.

Using this exception can affect how you calculate your car expense deductions.

9-2 Deducting an expense related to an award transport payment

9-3 Definition of “award transport payment”

9-4 Substituted industrial instruments

9-5 Changes to industrial instruments applied for before 29 October 1986

9-6 Changes to industrial instruments solely referable to matters in the instrument

9-7 Deducting in anticipation of receiving award transport payment

9-8 Effect of exception in this Division on exception for small total of expenses

9-9 Effect of exception in this Division on methods of deducting car expenses

9-2 Deducting an expense related to an award transport payment

The exception

- (1) If:
- (a) you are paid one or more award transport payments in the income year; and
 - (b) the total of the transport expenses, to the extent that they relate to the award transport payments, that you incur during any income year and claim as deductions in any income year is no more than the total amount of the payments;

then you can deduct those transport expenses without getting written evidence or keeping travel records.

Increases to amounts payable under industrial instrument must be ignored

- (2) For each award transport payment, you can deduct no more than the amount you could have deducted if the industrial instrument the payment is under were still in force as it was on 29 October 1986. If your claim exceeds this amount, you cannot use the exception for the expenses.

9-3 Definition of “award transport payment”

“Award transport payment”

- (1) An **award transport payment** is a transport payment covering particular travel that was paid under an industrial instrument that was in force on 29 October 1986.

“Transport payment”

- (2) A **transport payment** is an amount your employer (as defined in section 221A) pays you, or is to pay you, for travel by you in the course of working for the employer that is:
- (a) an allowance (or part of an allowance) for the sole or main purpose of covering your transport expenses; or
 - (b) a reimbursement to which paragraph 26(eaa) applies that is for the whole or a part of a car expense (as defined in section 11-2 of Schedule 2A).

section 9-4

However, an amount is not a transport payment if it is, or is part of, a travel allowance (as defined in section 2-2).

“Industrial instrument”

- (3) An **industrial instrument** is a law of the Commonwealth or of a State or Territory or an award, order, determination or industrial agreement in force under such a law.

“Transport expense”

- (4) A **transport expense** is a cost to do with transport, including depreciation of property used in connection with transport, but not including a cost of accommodation, a cost of buying food or drink or expenditure incidental to transport.

9-4 Substituted industrial instruments

An industrial instrument that comes into force in substitution for another industrial instrument is taken to be a continuation of the original instrument.

9-5 Changes to industrial instruments applied for before 29 October 1986

- (1) Changes made to an industrial instrument after 29 October 1986 are taken to have been made on 29 October 1986 if they were made in response to an application made on or before 29 October 1986 that sought increases in transport payments.
- (2) If the application was amended after 29 October 1986, the alterations made to the industrial instrument count as being made on 29 October 1986 only if they did not result in increases in transport payments that were greater than increases in those payments sought by the application as at 29 October 1986.

9-6 Changes to industrial instruments solely referable to matters in the instrument

Changes made to an industrial instrument after 29 October 1986 are taken to have been made on 29 October 1986 if the whole amount of the change is determined solely by reference to matters that were contained in the industrial instrument on 29 October 1986.

9-7 Deducting in anticipation of receiving award transport payment

- (1) If:
- (a) you have incurred a transport expense during an income year; and
 - (b) when you lodge your income tax return for the income year, you reasonably believe that you will later receive an award transport payment to cover the expense;

you may deduct the expense without getting written evidence or keeping travel records.

- (2) However, if the Commissioner becomes satisfied that you will not receive the award transport payment after all, then, despite section 170, he or she may at any time disallow the deduction and amend your assessment accordingly.

9-8 Effect of exception in this Division on exception for small total of expenses

An expense that section 9-2 lets you deduct without getting written evidence or keeping travel records does not count towards the \$300 limit in section 2-5.

9-9 Effect of exception in this Division on methods of calculating car expense deductions

- (1) If the exception in this Division lets you deduct, without getting written evidence or keeping travel records, expenses (“**exempt expenses**”) that are or include car expenses, or parts of car expenses, your use of the 4 methods for calculating deductions for car expenses for the car is affected.

You may elect not to use the exception

- (2) However, if you do not want your use of the 4 methods to be affected, you may elect not to use the exception in this Division for the award transport payments you are paid in the income year. If you so elect, the rest of this section does not affect you.

section 9-9

“Cents per kilometre” method

- (3) You can still use the “cents per kilometre” method (see Division 3 of Schedule 2A) of deducting car expenses you incurred for the car in the income year. However, the kilometres the car travelled during the income year in the course of travel covered by the award transport payment or payments are not counted as business kilometres.

“12% of original value” and “one-third of actual expenses” methods

- (4) You cannot use the “12% of original value” method (see Division 4 of Schedule 2A) or the “one-third of actual expenses” method (see Division 5 of Schedule 2A) of deducting car expenses you incurred for the car in the income year.

“Log book” method

- (5) You can still use the “log book” method (see Division 6 of Schedule 2A) of deducting car expenses you incurred for the car in the income year. If you do:
- (a) the kilometres the car travelled during the income year in the course of travel covered by the award transport payment or payments are not counted as business kilometres; and
 - (b) in working out the amount (if any) you can deduct for such a car expense that consists partly of an exempt expense, Division 6 of Schedule 2A is applied to the whole of the car expense, without excluding the part that consists of an exempt expense.

Schedule 2

**Consequential amendments of
the *Income Tax Assessment Act 1936***

1. **Paragraph 21A(3)(b)**

After “F” insert “, GA”.

2. **Paragraph 26AJ(2)(b)**

Omit “Subdivision F”, substitute “Subdivisions F and GA”.

3. **Subsection 51AF(2)**

Omit, substitute:

(2) In this section:

“**car**” has the meaning given by section 11-1 of Schedule 2A;

“**car expense**” has the meaning given by section 11-2 of Schedule 2A;

“**employee**” has the meaning given by section 221A;

“**employer**” has the meaning given by section 221A.

4. **Subsection 51AG(2)**

Omit, substitute:

(2) In this section:

“**employee**” and “**employer**” have the meanings given by section 221A.

5. **After section 59**

Insert:

59AAA Disposal, loss or destruction of car for which certain methods have been used to calculate car expense deductions

(1) This section applies if:

(a) depreciation of a car has been allowed, or is allowable, as a deduction to a taxpayer in respect of a period, or each of 2 or more periods; and

(b) the taxpayer has chosen a relevant method (see subsection (7)) for the car for a year of income or each of 2 or more years of income; and

- (c) the car is disposed of, lost or destroyed at a particular time (“**the disposal time**”).
- (2) For the purposes of section 59 (Disposal, loss or destruction of depreciated property), the car’s depreciated value at the disposal time is the amount (“**the notional amount**”) that, in the Commissioner’s opinion, would have been that depreciated value at that time if:
- (a) the taxpayer had not chosen a relevant method for the car for the year of income, or any of the years of income, referred to in paragraph (1)(b); and
 - (b) the car expense deduction and substantiation rules (see subsection (8)) did not apply, and had never applied, in relation to depreciation of the car in respect of that year of income or any of those years of income.
- (3) In applying section 56 (Calculation of depreciation) to determine the notional amount, the taxpayer’s use of the car during the year of income, or any of the years of income, referred to in paragraph (1)(b) is taken to have been for the purpose of producing the taxpayer’s assessable income.
- (4) In applying section 61 (Property used partly for producing assessable income) to determine the notional amount, the taxpayer’s use of the car during the year of income, or any of the years of income, referred to in paragraph (1)(b) is taken to have been:
- (a) if the taxpayer used the “cents per kilometre” method of deducting car expenses for the car for the year of income concerned—to the extent of 20%; or
 - (b) if the taxpayer used the “12% of original value” method—to the extent of one-third; or
 - (c) if the taxpayer elected that subsection 82KW(3) apply in relation to the car in relation to the year of income concerned—to the extent of one-third; or
 - (d) if the taxpayer elected that subsection 82KX(1) apply—to the extent of 20%;

for the purpose of producing the taxpayer’s assessable income.

- (5) The amount (“**the balancing amount**”) that, under section 59 (Disposal, loss or destruction of depreciated property), is allowable as a deduction to the taxpayer, or is included in the taxpayer’s assessable income, as appropriate, must be reduced if the Commissioner considers it reasonable to do so. The amount may be reduced to zero.
- (6) In deciding whether to reduce the balancing amount, or by how much to reduce it, the Commissioner must have regard to the proportion that the period, or the total of the periods, referred to in paragraph (1)(a) bears to the total of:
 - (a) that period or those periods; and
 - (b) the year or years of income referred to in paragraph (1)(b).
- (7) A taxpayer **chooses a relevant method** for a car for a year of income if the taxpayer:
 - (a) uses the “cents per kilometre” method of deducting car expenses for the car for that year of income; or
 - (b) uses the “12% of original value” method; or
 - (c) elects that subsection 82KW(3) apply in relation to the car in relation to the year of income; or
 - (d) elects that subsection 82KX(1) apply.
- (8) The **car expense deduction and substantiation rules** are:
 - (a) Subdivision GA of Division 3 of Part III and Schedules 2A and 2B; or
 - (b) Subdivision F of that Division;as appropriate.

6. Heading to Subdivision F of Division 3 of Part III

Add at the end “of years of income up to and including 1993-94”.

7. Before section 82KT

Insert in Subdivision F of Division 3 of Part III:

82KTA Application of this Subdivision

- (1) This Subdivision applies only to years of income up to and including the 1993-94 year of income.

- (2) For the law applying to the 1994-95 year of income and later years of income, see Subdivision GA and Schedules 2A and 2B.

8. After section 82KZBB

Insert:

Subdivision GA—Calculating car expense deductions, and substantiating certain expenses, of the 1994-95 and later income years

82KZBC Schedule 2A has the rules about calculating car expense deductions

Schedule 2A has effect as law.

82KZBD Schedule 2B has the rules about substantiating certain expenses

Schedule 2B has effect as law.

82KZBE Application of Schedules 2A and 2B

- (1) Schedules 2A and 2B apply to the 1994-95 income year and later income years. (For the law applying to earlier income years, see Subdivision F.)
- (2) This application is partly retrospective, because Schedules 2A and 2B were enacted during the 1994-95 income year. This section and section 82KZBF ensure that, for that year, you are not disadvantaged by changes in the law.
- (3) If the new law prevents you from deducting an amount for an expense for the 1994-95 income year, but you would have been able to deduct an amount for the expense if the old law had applied to that year, you can deduct the amount that you could have deducted under the old law.
- (4) If under the new law you can deduct an amount for an expense for the 1994-95 income year, but you could have deducted a greater amount for the expense if the old law had applied to that year, you can deduct the greater amount.
- (5) In this section:
“**new law**” means Schedules 2A and 2B;
“**old law**” means Subdivision F.

82KZBF Transitional provisions about log books

- (1) This section contains transitional provisions about income years for which you need to keep a log book. The general rules about this are in section 7-2 of Schedule 2A.
- (2) For the purposes of section 7-2 of Schedule 2A, you are taken to have used the “log book” method for a car for the 1993-94 income year or an earlier income year if section 82KUD applied for the purpose of determining the amounts of deductions allowable under this Act in respect of car expenses you incurred for the car in that income year.
- (3) For the purposes of section 7-2 of Schedule 2A, you are taken to have kept a log book for a car for the 1994-95 income year or an earlier income year if log book records and odometer records for the car were maintained by you or on your behalf, in accordance with Subdivision F, for the applicable log book period in that income year. Those log book records and odometer records are taken to be the log book you kept for that income year.

Note: This subsection also applies to the 1994-95 income year because you may have kept your log book records and odometer records under Subdivision F before Schedule 2A was enacted.

- (4) If subsection 7-2(2) of Schedule 2A would have required you to keep a log book for the 1994-95 income year because you haven't kept one for the car for 4 or more income years in a row, then:
 - (a) you don't need to keep a log book for the car for the 1994-95 income year; but
 - (b) you must keep one for the 1995-96 income year, unless for some other reason you keep one for the 1994-95 income year.
- (5) If the Commissioner gave you a notice under paragraph 82KTG(h) requiring you to treat the 1994-95 income year as a log book year of income in relation to the car, you must keep a log book for the car for that income year.

Note: If you kept your log book records and odometer records for that income year under Subdivision F before Schedule 2A was enacted, see subsection (3).

9. Subsection 170(10)

Omit “or subsection 221YRA(2)”, substitute “, subsection 221YRA(2) or Schedule 2A or 2B”.

10. After subsection 221B(4)

Insert:

- (4A) The resolution, insofar as it applies to Subdivision F of Division 3 of Part III in relation to expenses incurred after a particular day, also applies to Subdivision GA of that Division and Schedules 2A and 2B in relation to expenses incurred after that day.
- (4B) The resolution, insofar as it applies to Subdivision GA of Division 3 of Part III and Schedules 2A and 2B, applies in relation to expenses incurred after the day on which the resolution takes effect.

11. Section 223A

Repeal.

Schedule 3

Consequential amendments of the Income Tax Regulations

1. Regulation 146

Omit “the same meaning as in Subdivision F of Division 3 of Part III of”, *substitute* “the meaning given by section 11-1 of Schedule 2A to”.

2. Regulation 147

Omit “section 82KX of”, *substitute* “section 3-2 of Schedule 2A to”.

Schedule 4

**Consequential amendments of
the *Fringe Benefits Tax Assessment Act 1986***

1. ***Subparagraph 19(1)(b)(i)***
After “F” insert “, GA”.
2. ***Paragraph 22(a)***
Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, substitute “car expense, as defined by section 11-2 of Schedule 2A to”.
3. ***Subparagraph 24(1)(b)(iii)***
After “F” insert “, GA”.
4. ***Paragraph 34(1)(b)***
Omit “Subdivision F”, substitute “Subdivisions F and GA”.
5. ***Paragraph 37(b)***
Omit “Subdivision F”, substitute “Subdivisions F and GA”.
6. ***Subparagraph 44(1)(b)(i)***
After “F” insert “, GA”.
7. ***Subparagraph 44(1)(ba)(ii)***
After “F” insert “, GA”.
8. ***Subparagraph 52(1)(b)(i)***
After “F” insert “, GA”.
9. ***Subparagraph 52(1)(ba)(ii)***
After “F” insert “, GA”.
10. ***Subparagraph 58A(c)(i)***
Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, substitute “car expense, as defined by section 11-2 of Schedule 2A to”.
11. ***Subparagraph 58F(c)(i)***
Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, substitute “car expense, as defined by section 11-2 of Schedule 2A to”.

12. Subparagraph 58M(2)(c)(i)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

13. Sub-subparagraph 60A(2)(b)(i)(A)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

14. Subparagraph 61(1)(c)(i)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

15. Subparagraph 61A(2)(a)(i)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

16. Paragraph 61B(b)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

17. Paragraph 61E(b)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

18. Paragraph 61F(b)

Omit “car expense, within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense, as defined by section 11-2 of Schedule 2A to”.

19. Subsection 136(1) (definition of “basic car rate”)

Omit, substitute:

“**basic car rate**”, in relation to a year of tax ending on 31 March in a year, means the rate prescribed for the purposes of:

- (a) if the year of tax ended on or after 31 March 1995—section 3-2 of Schedule 2A to the *Income Tax Assessment Act 1936*;
or
- (b) if the year of tax ended before or on 31 March 1994—paragraph 82KX(1)(a) of the *Income Tax Assessment Act 1936*;

in relation to the year of income ending on 30 June in that year.

20. Subsection 136(1) (definition of “car expense payment benefit”)

Omit “car expense within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense as defined by section 11-2 of Schedule 2A to”.

21. Subsection 136(1) (paragraph (b) of the definition of “car loan benefit”)

Omit “car expense within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense as defined by section 11-2 of Schedule 2A to”.

22. Subsection 136(1) (definition of “car property benefit”)

Omit “car expense within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense as defined by section 11-2 of Schedule 2A to”.

23. Subsection 136(1) (definition of “car residual benefit”)

Omit “car expense within the meaning of Subdivision F of Division 3 of Part III of”, *substitute* “car expense as defined by section 11-2 of Schedule 2A to”.

24. Subsection 136(1) (definition of “deductible expenses”)

After “F” *insert* “, GA”.

25. Subsection 136(1) (definition of “documentary evidence”)

Omit, substitute:

“**documentary evidence**”, in relation to an expense incurred by a person, means:

- (a) if the expense was incurred on or after 1 July 1994—a document that would constitute written evidence of the expense obtained in the way described in section 5-4 of Schedule 2A to the *Income Tax Assessment Act 1936* if the expense were a work expense, and the person were a taxpayer, within the meaning of that Schedule; or
- (b) if the expense was incurred before 1 July 1994—a document that would constitute documentary evidence of the expense within the meaning of subsection 82KU(1) of that Act (including that subsection as applied by subsections 82KU(3) and (4) of that Act) or subsection 82KU(5) of that Act if the person were a taxpayer within the meaning of that Act.











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