Explanatory Statement

INCOME TAX ASSESSMENT ACT - CENTS PER KILOMETRE DEDUCTION RATE FOR MOTOR VEHICLE EXPENSES

## General Outline of Instrument

1. This instrument is made under subsection 28-25(4) of the *Income Tax Assessment Act 1997.*
2. The instrumentsets the rate at which work-related motor vehicle expense deductions may be claimed in an income year when using the cents per kilometre method.

1. The Commissioner of Taxation has determined the rate to be 66 cents per kilometre for the income year commencing 1 July 2016.
2. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
3. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

## Date of effect

1. The instrument applies from 1 July 2016.

## What is this instrument about

1. This instrument sets the rate at which work-related motor vehicle expense deductions may be claimed in an income year when using the cents per kilometre method.
2. This instrument sets the rate at 66 cents per kilometre for the income year commencing 1 July 2016, and this rate remains applicable to subsequent income years until such time as the Commissioner of Taxation determines, having regard to subsection 28-25(5), that it should be varied.

## What is the effect of this instrument

1. The effect of this instrument is to ensure taxpayers and tax practitioners have certainty about the rate at which work-related motor vehicle expense deductions may be claimed using the cents per kilometre method.
2. This instrument provides further certainty by ensuring that the rate remains applicable until the Commissioner of Taxation, having regard to subsection 28-25(5), determines that it should be varied.

## Background

1. In the 2015 Federal Budget the Government announced its intention to modernise the ‘cents per kilometre method’ by replacing three rates based on engine size with one rate set at 66 cents per kilometre to apply for all motor vehicles. The *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015* received Royal Assent on 30 November 2015, enacting these changes to the *Income Tax Assessment Act 1997.*
2. Subsection 28-25(4) of the *Income Tax Assessment Act 1997* enables the Commissioner of Taxation to determine rates of cents per kilometre for cars for an income year.
3. Subsection 28-25(5) of the *Income Tax Assessment Act 1997* requires that the Commissioner of Taxation, when determining the rate, have regard to the average operating costs for the cars to be covered by that rate.
4. After due consideration, the Commissioner has determined that the rate of 66 cents per kilometre will apply for the income year commencing 1 July 2016. This instrument sets that rate.

## Consultation:

1. This instrument was developed in consultation with internal Australian Taxation Office (ATO) staff and staff from the Australian Bureau of Statistics (ABS).
2. In May 2016 the ABS was consulted. Historically, the expenditure data used to determine the appropriate rate was sourced from the Household Expenditure Survey (HES). The ABS advised that this Survey was last conducted in 2009-10, and there is no more recent expenditure data available. The ABS further advised that the 2015-16 HES is currently in the field being collected, with data from this survey expected in mid-2017.
3. However, the ABS did advise that the Transport group and Automotive fuel component have fallen in their contribution to the CPI. While this does not directly reflect a drop in average private motor vehicle expenses, it does show a drop in fuel prices. Fuel prices, on the available data, are the biggest motor vehicle expense after the vehicle purchase price. The Commissioner has therefore determined that there is no evidence to warrant an increase in the cents per kilometre rate.
4. The ATO Revenue Analysis Branch (RAB) was consulted on 18 May 2016, seeking an assessment of the regulatory impacts on the community and compliance costs that may be imposed by this instrument. RAB advised that there will be no or minimal impact for both implementation and ongoing compliance costs, and that the legislative instrument is minor or machinery in nature.
5. The making and publication of the cents per kilometre deduction rate for motor vehicle expenses is a routine part of tax administration.
6. The rate to apply from 1 July in any year will be determined by the Commissioner of Taxation, who will consider the average operating costs of cars to be covered by the rate. If the Commissioner determines that the current rate remains applicable, the current determination will remain in force. This will ensure that legislative requirements are fulfilled for each income year.
7. No further consultation has been undertaken in the development of this instrument because the instrument does not vary the cents per kilometre rate of 66 cents announced in the 2015-16 Budget Paper No. 2.

*Legislative references:*

*Income Tax Assessment Act 1997*

*Legislation Act 2003*

## *Tax and Superannuation Laws Amendment (2015 Measures No. 5) Act 2015*

### Statement of compatibility with Human Rights

### Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

**Cents per kilometre deduction rate for motor vehicles**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

Under subsection 28-25(4) of the *Income Tax Assessment Act 1997,* the Commissioner of Taxation will determine the rate at which work-related motor vehicle expense deductions may be claimed in an income year using the cents per kilometre method.

The Commissioner of Taxation by this instrument has determined the rate to be 66 cents per kilometre for the income year commencing 1 July 2016.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms. It is minor and machinery in nature.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.