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## Explanatory Statement

# Income Tax Assessment Act 1997 - Cents per Kilometre Deduction Rate for Car Expenses 2020

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### General Outline of Instrument

1. This instrument is made under subsection 28-25(4) of the *Income Tax Assessment Act 1997*.
2. The instrument sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.
3. The Commissioner of Taxation has determined the rate to be 72 cents per kilometre for the income year commencing 1 July 2020.
4. A car is defined in section 995-1(1) of the *Income Tax Assessment Act 1997* as a motor vehicle (except a motor cycle or similar vehicle) designed to carry a load of less than one tonne and fewer than nine passengers.
5. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
6. 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

7. This instrument commences on 1 July 2020

Under section 12(2) of the *Legislation Act 2003* this instrument does not adversely affect the rights or liabilities of any person other than the Commonwealth. This subsection does not apply as this instrument is beneficial to taxpayers as it allows them to claim a greater deduction than was allowed for previous income years.

### What is the effect of this instrument

8. The effect of this instrument is to ensure taxpayers and tax practitioners have certainty about the rate at which work-related car expense deductions may be claimed using the cents per kilometre method.
9. 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.

### Compliance Cost Impact

10. Minor – there will be no or minimal impacts for both implementation and ongoing compliance costs. This legislative instrument is minor or machinery in nature.

## **Background**

11. 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 cars. 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*.

12. 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.

13. 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.

14. After due consideration, the Commissioner has determined that the rate of 72 cents per kilometre will apply for the income year commencing from 1 July 2020. This instrument sets that rate.

## **Consultation**

15. For this instrument, broad public consultation was undertaken for a period of 4 weeks to 14 April 2020.

16. The draft instrument and draft explanatory statement was published to the ATO Legal database. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on ato.gov.au. Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly alerts and newsletters to their subscribers and members. This ensures advice of the draft is disseminated widely across the tax professional community, and that they are in an informed position to provide comments and feedback.

17. No comments were received as a result of the consultation

## **Legislative references**

*Acts Interpretation Act 1901*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*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*

### **Income Tax Assessment Act 1997 - Cents per Kilometre Deduction Rate for Car Expenses 2020**

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**

This instrument sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms as it simply sets the rate at which work-related car expense deductions may be claimed in an income year when using the cents per kilometre method.

#### **Conclusion**

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