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PRODUCT RULING – BR PRD 17/02

This is a product ruling made under s 91F of the Tax Administration Act 1994.

Name of the Person who applied for the Ruling

This Ruling has been applied for by Logbook Me Pty Ltd and Fleet NZ Ltd.

Taxation Laws

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

This Ruling applies in respect of:

- ss CX 6, CX 38, DE 7 and RD 29; and
- s 75(3BA) of the Goods and Services Tax Act 1985 (GSTA).

The Arrangement to which this Ruling applies

The Arrangement is the use of the LogbookMe product (LogbookMe) by taxpayers to record details of their vehicular trips. LogbookMe is a cloud-based online platform which uses an on-board electronic recording device to log data about a vehicles' trip. Logbook Me Pty Ltd (LMP) an Australian registered and resident company owns and maintains the LogbookMe product, which is licensed on a wholesale basis to Fleet NZ Ltd (FleetPartners). Hardware and sim card connectivity is supplied by LMP to FleetPartners for sale directly to customers in New Zealand. LMP provides provisioning support and manages the service. FleetPartners is the exclusive distributor of LogbookMe in New Zealand.

LogbookMe can be used by New Zealand individuals and businesses to record all vehicle journeys. It allows the driver to classify and generate reports on the business use of the vehicle. This subsequently enables the calculation of a business use percentage.

Further details of the Arrangement are set out in the paragraphs below.

LogbookMe components

1. LogbookMe consists of the components set out in the following paragraphs.

2. An in-car device (Device) that is installed in the car to capture journey information. The Device:

   - contains an accurate GPS module, movement sensors, solid state memory, mobile communication modules, sim card, battery and power socket;
   - monitors car usage, including the position of the vehicle, start and end locations of journeys, start and stop times, start and stop date and total distance travelled;
   - is powered by connecting directly to the car's On Board Diagnostics (OBD) port;
   - commences recording the following data when it senses movement and/or ignition in the car:
     - car registration;
     - a record of all trips made by the relevant car;
     - date of trip;
     - start time of each trip;
     - end time of each trip;
     - start odometer;
     - end odometer;
     - total kilometres travelled during the trip; and
     - trip details (including start and end address);
   - records that data onto the Device memory with identifiers, including the time and date of each capture; and
   - automatically and continuously transmits the recorded data to the data management platform using a wireless mobile connection (should coverage on the mobile network not be available, it will automatically store the recorded data (up to approximately 30,000 trips) and periodically resend it until successful).

3. Car and employee registration with secure login and password features (SSL encrypted using a case sensitive password). This registration occurs at the time when the Device is ordered and the account is set up by the LogbookMe support team.

4. A cloud-based online remote data management platform (Platform) which is hosted in Australia. The Platform that securely receives, processes, reports and stores the journey information. In particular, it:

   - receives all transmissions continuously whilst the Device is operating and verifies data integrity upon receipt. The Platform then processes the

transmissions and generates a log for the specific Device that represents an individual driver. Part of the processing includes collation of various transmissions to create individual trips (Trip Log).

- collates Trip Logs that then appear in the smartphone application and web browser dashboard for the driver to classify each trip.

5. A smartphone based mobile application (App) and the web browser-based secure dashboard portal (Portal), both of which allow the driver to easily classify journey information and record the purpose or purposes of each journey as follows:

- After the creation of each Trip Log, the driver will receive an in-device notification (if using the App) prompting for journey classification and to record the purpose, or purposes, of the journey. Alternatively, the driver may also use the Portal, which is enabled with the same functionality to classify the journey and record the purpose, or purposes, of the journey.
- The driver will need to confirm and classify each trip as follows:
  - the date and time when each journey began and ended;
  - the respective odometer readings at beginning and end of each journey;
  - the number of kilometres travelled by the car in the course of the journey;
  - the purpose of the trip; and
  - whether the trip was business or personal.
- To assist the driver, the App and Portal can be set to automatically overlay the driver's calendar entries and auto-fill the field for recording the purpose, or purposes, of the journey. Where this function is utilised, the driver is required to review and validate the auto-fill calendar information and may also make necessary edits. The purpose, or purposes, of the journey is not recorded until the user has validated and saved the record by press of a button. Prior to this step, the record will remain unclassified.
- Where the driver has not classified a trip within 48 hours (or timeframe as agreed by the employer or individual), the driver will receive an email notification requesting that they log in to the App or Portal to classify any outstanding Trip Logs.
- Data entered on a smartphone application or web interface will transmit to the server immediately once saved by the user. The user then receives feedback on the success of the transmission. If the transmission is not successful, the user is advised to resubmit.
- A timestamp is recorded to the database when a trip is classified by a certain user, whether performed on a smartphone application or web interface.
- At any given time, the driver will be able to view all unclassified trips on the App and Portal. The driver is then able to classify each trip individually and record the purpose, or purposes, of the journey.

6. The Portal allows the employer and driver to:

- view, review and generate reports on all data (including device, driver, car details) that are exportable in English to a variety of file formats (including .xls, .csv and .pdf);
- obtain the business use percentage, which has been determined by the business distance travelled divided by total distance travelled (which includes both personal and business distance travelled);
- obtain information on all relevant items and recorded fields, which include:
    - car registration;
    - start date of logbook period, including opening kilometres;
    - end date of logbook period, including ending kilometres;
    - a record of all trips made by the relevant car;
    - date of trip;
    - start time of each trip;
    - end time of each trip;
    - start odometer;
    - end odometer;
    - total kilometres travelled during the trip;
    - trip details (including start and end address);
    - classification of trip (business or personal);
    - detail of the purpose, or purposes, of the journey;
    - any unclassified trips; and
    - any days remaining in the logbook term;
- capture data for different periods of time, including the 'test period' (a period of 12 weeks), the full duration the car was held or any other period of time that the user wishes to determine a log for.

7. The employer also has a summary of all drivers, including:

- user attributes (including name and car registration details);
- start odometer reading;
- end odometer reading;
- business usage percentage;
- number of unclassified trips;
- last trip;
- start date of logbook;
- end date of logbook; and
- days remaining in logbook period.

Set-up

8. At the time the Device is ordered, either the employer or the individual provides set-up information that is input upon set-up of the user account. This information includes the following:

   - name of driver;
   - car registration;
   - car make and model;
   - engine size;
   - carrying capacity;
   - email address for user notifications and App configuration;
   - login and password details; and
   - the name of the employer.

9. This set-up process allows the user to utilise the Device and the Platform. The above information can be reviewed and revised by the car driver at any time through the Portal. This information can also be reviewed by the employer. If any anomalies are identified by the employer, the employer can communicate these anomalies to the employee so that appropriate changes can be made.

10. The Platform is activated for use when the Device is dispatched to the user and, from that point, is available to receive journey information at any time while the Device is operating. Upon receipt of the Device and it being placed in the relevant car, the user will be prompted to enter the below information prior to commencing their first trip:

    - login and password details;
    - opening odometer reading from the vehicle's built-in odometer; and
    - time zone.

11. LogbookMe's optional recording periods are currently either a 12-week period or a 52-week period. Users may easily extend the usage period beyond the set periods and, if so, the Trip Log will continue to be populated by data received on the Platform.

12. LogbookMe can also allow multiple drivers to classify trips using a Shared Car Module in the LogbookMe Platform. Similar to the process described above, this would allow for multiple drivers to login to cars that they have used and classify the relevant trips.

Security

13. LogbookMe's In-Car Logbook Solution data is securely stored on the Platform and is:

    - automatically backed up on a daily basis at 4pm, and retains 7-day running snapshots, as well as weekly and monthly snapshots, to protect the integrity of information;

- IP locked for database and remote access and staff are provided limited access on an as needed timed basis locked to a static IP address at a specific location;
- very transparent and has a full audit trail capturing the metadata in the event any trip information or account information is changed.

14. LMP regularly updates its data management platform for the latest security patches and IP locked firewalls are in place for database and remote access. All staff and contractors are instructed to safeguard sensitive records and are provided limited access on an as needed timed basis locked to a static IP address at a specific location. This ensures that the risk of unauthorised alteration, addition or deletion is minimised as much as possible.

15. In addition, LMP's data storage provider, Amazon Web Services Asia Pacific (AWS), stores LogbookMe's objects on multiple devices across multiple facilities across Australia and regularly verifies the integrity of LogbookMe's data using checksums. This is designed to sustain concurrent device failures by quickly detecting and repairing any lost data.

16. Further, a versioning backup system (databases exist in several versions at the same time) allows LMP to preserve, retrieve and restore every version of every object stored in AWS. This provides LMP with an additional level of protection by providing a means of recovery if objects are inadvertently overridden or deleted.

17. As a final step to ensuring the integrity of data, LMP permits only its technical director to have permanent access to its data management platform. All other LogbookMe user accounts are protected by a SSL (Secure Sockets Layer) encryption using a case sensitive password. This ensures that only authorised personnel have access to electronic records.

18. FleetPartners has a direct feed which provides a live carbon copy of all client data from LMP via an Application Program Interface (API) that is provided in real time by LMP. This data is stored in New Zealand by FleetPartners for fleet management and reporting. This is hosted on a local server located at the FleetPartners office in Mount Wellington, Auckland.

19. LMP's data retention policy for current, future and former clients is to maintain records indefinitely.

Data integrity checks

20. Upon completion of the logbook, the driver will be prompted to enter the odometer reading as displayed on the car odometer at the end of the logbook period. The Portal will then determine whether there is any variance between the closing odometer reading determined by the GPS compared to the car odometer reading.

21. If the variance between the total distance measured by the GPS compared to the car odometer reading is greater than an acceptable variance (as pre-determined by the employer and the driver), the employer and driver will be notified.

22. Where it is deemed that the variance is not acceptable, the driver will have the option to continue the logbook period or to restart the logbook period. This prevents the driver from overstating business kilometres travelled by having a referenced GPS calculation, and ensures accuracy and integrity of the calculation.

Customer Agreement

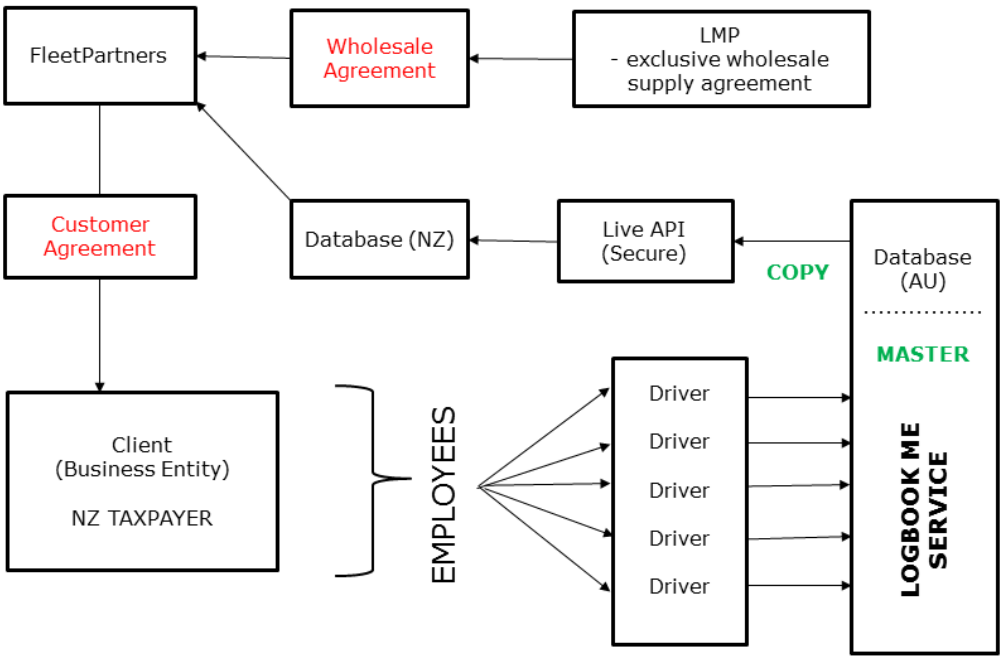
23. The Customer Agreement: Online Telematics Service (Customer Agreement) a copy of which was provided to Inland Revenue on 9 March 2017, sets out the terms and conditions under which FleetPartners supplies LogbookMe to its customers.

24. Clause 20 of the Customer Agreement sets out the record keeping obligations of FleetPartners as follows:

> **20 Record Keeping**
>
> FleetPartners must maintain, for a period of 7 years after the end of the income year or taxable period to which they relate, separate and accurate records of all Customer Data related to this agreement. These records will remain readily accessible to the Customer and the End User for the 7 years after the end of the income year or taxable period to which they relate.

25. Clause 19.5 of the Customer Agreement provides that cl 20 of the Customer Agreement will survive termination of the Customer Agreement.

26. The following diagram summarises how the Arrangement operates:



Conditions stipulated by the Commissioner

This Ruling is made subject to the following conditions:

a) The taxpayer accurately fills out the required fields in LogbookMe.

b) The taxpayer does not remove the Device from the vehicle during the log book period.

c) LogbookMe operates appropriately and accurately to record all relevant vehicle trip data.

d) LogbookMe satisfies the requirements of s 26 of the Electronic Transactions Act 2002.

How the Taxation Laws apply to the Arrangement

Subject in all respects to any condition stated above, the Taxation Laws apply to the Arrangement as follows:

a) Taxpayers who use LogbookMe will satisfy the record-keeping requirements of s 75(3BA) of the GSTA for those records that are generated by LogbookMe.

b) A taxpayer's use of LogbookMe will satisfy the logbook record keeping requirements set out within s DE 7 provided:

- the logbook is kept for a minimum of 90 consecutive days;
- the logbook is kept at a time that represents, or is likely to represent, the average proportion of travel by the vehicle for business purposes during the "logbook term" (as defined in s DE 8); and
- the Commissioner has not required the taxpayer to record additional information in its logbook under s DE 7(2)(f).

c) A taxpayer who uses LogbookMe will meet the requirements for recording the trip-related data (but not the non-trip-related data) for a "test period" under s RD 29(6) to establish the taxable value of the fringe benefit arising from making a vehicle available to an employee. This is provided that:

- LogbookMe is set to record the trip details during the test period for three consecutive months of an income year (where the taxpayer pays fringe benefit tax (FBT) on an income year basis) or a quarter (where FBT is paid quarterly or annually);
- the taxpayer chooses a test period that shows, or is likely to show, a pattern of use of the motor vehicle by the employee that fairly represents the use of the vehicle by the employee over the whole of the applicable "term" (as determined pursuant to s RD 31(6)–(8)); and
- the taxpayer independently records the number of days a motor vehicle was available, but not actually used, for private use over the period referred to above. However, if the vehicle is a work-related vehicle (as defined in s CX 38(1) and (2)), then the taxpayer does not need to record any days on which the vehicle was available for the following private use:

- travel to and from their home that is necessary in, and a condition of, their employment; or
- other travel in the course of their employment during which the travel arises incidentally to the business use.

d) A taxpayer who uses LogbookMe will record the trip-related data (but not the non-trip-related data) required to satisfy the work-related vehicle exclusion for FBT purposes under s CX 6(2) and to ascertain any private use days that may arise under s CX 38(3). This is provided that:

- the taxpayer independently records the number of days a motor vehicle was available, but not actually used, for private use over the period referred to above, other than private use that is:
  - travel to and from their home that is necessary in, and a condition of, their employment; or
  - other travel in the course of their employment during which the travel arises incidentally to the business use.

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 April 2017 and ending on 1 April 2020.

This Ruling is signed by me on the 3rd day of April 2017.

Howard Davis
Director (Taxpayer Rulings)