

**EXPOSURE DRAFT - FOR COMMENT AND DISCUSSION ONLY | HUKIHUKI HURANGA  
- MŌ TE TĀKUPU ME TE MATAPAKI ANAKE**

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Send feedback to | Tukuna mai ngā whakahokinga kōrero ki  
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## FACT SHEET | PUKA MEKA

# Income tax – deducting costs of travel by motor vehicle between home and work

Issued | Tukuna: Issue Date

### IS 24/## FS

This fact sheet accompanies **IS 24/XX**, which considers who can claim income tax deductions for expenditure on travel by motor vehicle between home and work under the specific deductibility rules for motor vehicle expenditure, and in what circumstances.

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

### Related documents | Tuhinga whai pānga

For more information on tax issues related to travel by motor vehicle between home and work, see:

- **IS 24/XX**: FBT – travel by motor vehicle between home and work; and
- **IS 24/XX FS**: FBT – travel by motor vehicle between home and work.

## Specific deductions for motor vehicle expenditure

1. Subpart DE sets out who can claim a specific deduction for motor vehicle expenditure and in what circumstances, and the methods for calculating the amount of the deduction. It also covers related matters such as when and how to keep a logbook.
2. Subpart DE applies to self-employed taxpayers and partners in partnerships. Close companies can also choose to claim deductions under subpart DE for motor vehicle expenditure that their shareholder-employees incur in some situations, instead of paying FBT. This fact sheet refers to these taxpayers as **relevant taxpayers**.
3. Subpart DE allows **relevant taxpayers** a deduction for their **business use** of a motor vehicle. Calculating the deduction for business use involves multiplying the total expenditure for the motor vehicle by the **business proportion**. The business proportion is the total distance of **business journeys** that the relevant taxpayer undertook in the motor vehicle, divided by the total distance of **all** journeys that the relevant taxpayer undertook in the motor vehicle.
4. In contrast, other taxpayers deduct motor vehicle expenditure under the general permission, unless a general limitation applies. Other taxpayers (excluding employees) do not typically incur expenditure that is subject to the private limitation. Although an employee's expenditure on travel between home and work may be private in nature, the employment limitation denies them a deduction for the expenditure. Therefore, it is not necessary for the apportionment methods in subpart DE to apply to employees.

### Business use

5. The Income Tax Act 2007 defines **business use** "for a motor vehicle and for a person" as "travel undertaken by the vehicle wholly [and exclusively] in deriving the person's income".<sup>1</sup> Case law specifically considers when travel between home and work is business use (undertaken "wholly and exclusively" in deriving income). This case law is discussed from [6] to [9].

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<sup>1</sup> See s YA 1. The words "and exclusively" were removed when the legislation was rewritten in 2004. However, sch 22A of the Income Tax Act 2004 does not show an identified policy change in relation to the removal of the words. The case law on the meaning of "wholly and exclusively" is therefore still considered relevant to the interpretation of "business use" in s YA 1. See also the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Bill, cls 105(7) and (37), and 200.

## The general rule for home to work travel expenditure

6. The **general rule** (from case law) is that expenditure on travel between home and work is private expenditure. This means that, generally, a journey between home and work is not business use and is not, generally, a business journey. For this reason, journeys between home and work are not usually counted in calculating the business proportion that is used to decide the amount of the specific deduction for motor vehicle expenditure.

## The four exceptions

7. **Four exceptions** (from case law) can apply to make travel between home and work business use. If any one of these exceptions applies to an entire journey, the journey will be a business journey and its distance will be included when calculating the business proportion that is used to decide the amount of the specific deduction for motor vehicle expenditure.
8. The following are the four exceptions to the general rule:
  - A vehicle is necessary for the taxpayer to **transport equipment or instruments (goods)** that are essential to their work between their home and workplace for use at both their home and their workplace. The vehicle must be necessary because the bulk, value, sensitivity or other special characteristics of the goods make it impractical to transport them without the use of a vehicle.
  - The **taxpayer's work is itinerant**. The term "itinerant" has a specific meaning in this context. It requires, broadly, that the taxpayer works at different locations during a workday; or that the sequence of workplaces and the periods spent by the taxpayer at each workplace vary and are unpredictable, so it is impractical for the taxpayer to carry out their work without the use of a vehicle.
  - The taxpayer responds to **emergency calls** from home and their responsibility for the outcome of the calls begins before they leave home. The nature of the work must require that the taxpayer works at home part of the time.
  - The taxpayer's **home is a workplace** or base of operations for the purposes of travel between home and work. For this exception to apply, it requires more than that the taxpayer does some work at home. It is a variation on the second case law exception (the taxpayer's work is itinerant).<sup>2</sup>

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<sup>2</sup> For a close company taxpayer, a reference at [8] to "the taxpayer" means the close company's shareholder-employee.

9. Essentially, these exceptions mean that a journey a relevant taxpayer makes between home and work in a motor vehicle will be business use and a business journey if:
  - The need for the work to be performed partly at home (and therefore the need for the travel) arises from **the nature of the work**; and
  - The travel is undertaken in performing work (**on work**).

## Subpart DE rules

10. Subpart DE sets out the **specific deduction** for motor vehicle expenditure and related matters, such as the requirement to keep a logbook. Subpart DE has its own methods for apportioning motor vehicle expenditure. These differ from the methods used to apportion expenditure when deducting it under the general permission.

## Relevant taxpayer

11. The specific deduction for motor vehicle expenditure applies to self-employed taxpayers and partners in partnerships; and close companies that choose to use the specific deduction rule instead of paying FBT (defined at [2] as **relevant taxpayers**).<sup>3</sup>
12. A **close company** can elect to use subpart DE if it:
  - supplies a maximum of two motor vehicle fringe benefits under s CX 6 to shareholder-employees in the income year; and
  - does not supply any other fringe benefits to employees in the income year.
13. When a close company chooses to use subpart DE, the shareholder-employee's expenditure is treated as the close company's expenditure.
14. Once a close company elects to use subpart DE, it must continue to do so until it stops using the motor vehicle for business use or until it disposes of the motor vehicle.

## Business journey

15. **Business journeys** are journeys by a motor vehicle for business purposes. These are journeys that consist solely of **business use**.

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<sup>3</sup> "Close company" is defined in s YA 1 as a company with five or fewer natural persons or trustees holding voting interests or market value interests of more than 50% in the company. Under this definition, all associated natural persons are treated as one natural person.

16. To calculate the deduction for business use under subpart DE, it is necessary to multiply the total motor vehicle expenditure for a relevant taxpayer and a motor vehicle by the **business proportion**. The business proportion is the total distance of **business journeys** the relevant taxpayer undertakes in the motor vehicle, divided by the total distance of **all** journeys the relevant taxpayer undertakes in the motor vehicle.
17. The method of calculating the amount of deductible expenditure outlined at [16] differs from apportionment methods that other taxpayers use for expenditure they deduct under the **general permission**. Under the general permission, expenditure is deductible **to the extent that** it is incurred in deriving the taxpayer's income. Expenditure can be apportioned directly into its income-earning (business) and other elements. (These other taxpayers will need to pay FBT, however, if they supply motor vehicle fringe benefits to employees. See the companion fact sheet, [IS 24/XX FS](#).)
18. Under subpart DE, private or mixed-use journeys are not business journeys. Mixed-use journeys cannot be apportioned. Therefore, none of the distance travelled during a mixed-use journey is counted in calculating the business proportion.
19. However, case law provides that in some situations, an overall journey can be treated as **two journeys** (see [20]) and that **incidental private use** does not prevent use from being business use or a journey from being a business journey (see from [21]). Further, the Commissioner considers that **minor or insignificant private use** (*de minimis* private use) may be disregarded within certain limits (see from [24]).

## Two journeys

20. When a person makes a stop during a journey between home and work (or between work and home), this may create two journeys instead of a single journey. For the stop to create two journeys, the purpose of the stop must be more than incidental to the purpose of the overall journey between home and work. This may mean one of the two resulting journeys qualifies as a business journey.

## Incidental private use

21. Incidental private use does not prevent a journey from being a business journey (and does not prevent use from being business use).
22. Incidental private use arises where a person undertakes a journey for a business purpose that, as a flow-on consequence or effect, gives rise to a private benefit or advantage for the person, but does not add to the overall distance travelled.

23. For example, a relevant taxpayer may stop in at a café to buy a sandwich on the way to a customer's business premises. If the journey is a business journey (eg, because it starts at the taxpayer's home and the taxpayer's home is their base of operations within the meaning of the fourth case law exception at [8]), the stop will be incidental private use and will not prevent the journey from being a business journey.

## Minor or insignificant private use and the Commissioner's view

24. Minor or insignificant private use arises where a person makes a minor or insignificant detour for a private purpose during a business journey that adds to the overall distance travelled.
25. Minor or insignificant private use can be disregarded in deciding whether a journey is a business journey or whether use is business use.
26. The Commissioner considers that, to be minor or insignificant, private travel cannot exceed **either** of the following:
- approximately 5% of the journey; and
  - approximately 2 km.

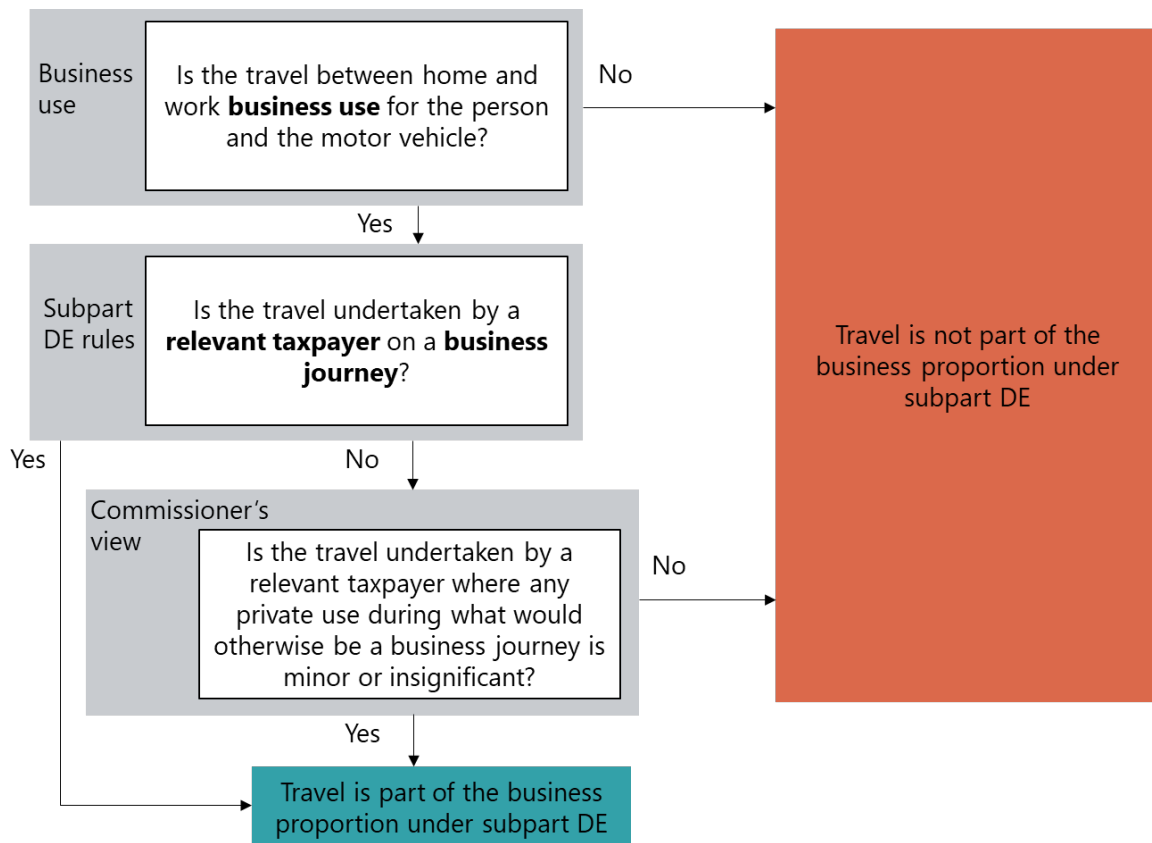
## Vehicles taken home for security reasons or for charging

27. Taking a vehicle home for security reasons or (in the case of an electric vehicle) to charge the battery is not **of itself** sufficient to make the relevant taxpayer's journey between home and work a business journey or to make the relevant taxpayer's use business use.
28. However, travel between home and work will be business use if other relevant factors mean that an exception applies. For example, a relevant factor may be that:
- a vehicle is necessary for the taxpayer to **transport equipment or instruments (goods)** that are essential to their work between their home and workplace for use at both their home and their workplace; or
  - the taxpayer's **home is a workplace** or base of operations for the purposes of travel between home and work.

## Flowchart

29. Figure | Hoahoa 1 provides an overview of the information in this fact sheet.

**Figure | Hoahoa 1: Travel by motor vehicle - when part of the business proportion under subpart DE**



## About this document | Mō tēnei tuhinga

Some of the Tax Counsel Office's longer or more complex items are accompanied by a fact sheet that summarises and explains an item's main points. While it summarises the Commissioner's considered views, a fact sheet should be read alongside the full item to completely understand the guidance. Fact sheets are not binding on the Commissioner. See further [Status of Commissioner's advice](#) (Commissioner's statement, Inland Revenue, December 2012).