

RULINGS > PRODUCT

Sustainable Mobility Limited (trading as Zilch)

Issued: 3 August 2022

BR Prd 22/04

The Arrangement is the provision of vehicles owned by Sustainable Mobility Limited (trading as Zilch) to a business customer who uses the vehicles for business purposes. The Arrangement also enables a driver–employee of the business customer to pay Zilch for the use of the vehicles for their private purposes.

START DATE – END DATE

01/07/2022 – 30 /06/2025

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING.)

Product Ruling – BR Prd 22/04

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

Name of person who applied for the Ruling

This Ruling has been applied for by Sustainable Mobility Limited (trading as Zilch).

Taxation Laws

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

This Ruling applies in respect of ss CX 2, CX 33, GB 31 and GB 32.

The Arrangement to which this Ruling applies

The Arrangement is the provision of access to a fleet of primarily electric vehicles by Zilch to a business customer under the terms of a Master Services Agreement (MSA) and a schedule to that agreement (the Services Schedule). The MSA and Services Schedule allow for the short-term rental of vehicles within that fleet by the business customer through a bespoke business booking portal in consideration for a monthly subscription fee. In addition, employees of the business customer may use the vehicles for private purposes in consideration for paying Zilch a price equal to the price Zilch charges a member of the public, subject to a discount of up to 15%.

Further details of the Arrangement are set out below.

- 1) Zilch's business customers sign-up to Zilch's MSA, which includes the Services Schedule. Together the documents provide the business customer with access to Zilch's fleet of vehicles on an hourly, daily, weekly or monthly basis.
- 2) The MSA enables business customers to gain access to Zilch's business booking portal. The business customer is responsible for uploading the driver-employees who are eligible to use the vehicles and services described in the MSA. In most cases, the driver-employees will be the employees of the business customer.
- 3) Under the Services Schedule, a monthly Service Fee is payable by the business customer in consideration for access to a specified number of vehicles, the booking portal service and charging cables. Additional fees are payable in limited circumstances.

- 4) Zilch does not charge members of the public a fee to access and use its booking portal service.
- 5) Whenever a vehicle is required, a booking is made through the Zilch business booking portal. The booking procedure requires the driver–employee to state whether the vehicle will be used for business travel or private travel.
- 6) Where the use is designated as business, the business customer is invoiced and charged for the vehicle use in accordance with the MSA and Services Schedule fees.
- 7) Where the use is designated as private, the driver–employee must pay Zilch the same rate as Zilch’s non-business customers pay for their private vehicle use. Zilch may offer a driver–employee a discount of up to 15% as against standard publicly offered rates in respect of private bookings made on the business booking portal. Any discount Zilch offers is a commercial decision of Zilch and is not made at the request or instruction of the business customer. In addition, any such discount is offered on the same terms as discounts offered to other business customers with comparable numbers of employees.
- 8) The private booking is subject to the same terms and conditions that are contained in the standard contract with a member of the public. . A credit card is required for the booking to be completed and to access the vehicle.
- 9) After the driver–employee has returned the vehicle, Zilch debits the amount charged for the driver–employee’s private use to the driver–employee’s private credit card.
- 10) Under the Services Schedule, Zilch may offer a business customer a rebate based on private bookings made by the business customer’s driver–employee’s through the business booking portal.
- 11) Where Zilch has offered the business customer a rebate, the amount of the monthly Service Fee Zilch invoices includes a reduction for an agreed on portion of the private amounts charged to the driver–employees.
- 12) Zilch’s system includes telematic technology fitted to each vehicle in the Zilch fleet. Zilch provides each business customer with access to a detailed report showing the actual use of vehicles for each driver–employee. This enables the business customer to confirm the amount of private and/or business use associated with each booking.
- 13) The business customer is not allocated specific vehicles. Vehicles of a particular standard or type are made available through the business booking portal. Zilch retains ownership and possession of all vehicles under the MSA.
- 14) Zilch vehicles that can be booked through the business booking portal are located at hubs situated variously either within or just outside the central business districts.

- 15) A vehicle hub may also be located at the premises of a business customer. In those cases, the vehicles located at that hub will be used exclusively by that business customer. All vehicles located at a business customer's hub remain the property of Zilch. Individual vehicles may be exchanged at Zilch's discretion.
- 16) Where a vehicle hub is located at the premises of a business customer, the business customer provides the electricity used for charging the vehicles. Where a driver-employee uses one of those vehicles for private purposes, the cost of the electricity charging the vehicle is part of the fee payable by the driver-employee to Zilch.

Conditions stipulated by the Commissioner

This Ruling is made subject to the following conditions:

- (a) The business customer's policies and procedures prohibit private use of the vehicle, including travel to and from a driver-employee's home and place of work, through a business booking in the Zilch system.
- (b) The business customer periodically reviews the reports Zilch provides to ensure no private use is made of vehicles booked for business purposes.
- (c) If Zilch offers a rebate to a business customer for bookings made by that business customer's driver-employees, the rebate will not be passed on to the business customer's driver-employees.
- (d) Where a private booking is made using the Zilch business booking portal, no refund or reimbursement of the cost Zilch charges is provided by the business customer to the driver-employee.

How the Taxation Laws apply to the Arrangement

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

- (a) None of the following features of the Arrangement gives rise to a "benefit" to a business customer's driver-employees for the purposes of s CX 2(1):
 - (i) private bookings made and paid for by driver-employees at an equivalent price to that Zilch offers the public;
 - (ii) a driver-employee's access to the business booking portal;
 - (iii) the use of a business customer's carpark for Zilch fleet vehicles;

- (iv) the use of an electricity charging facility for Zilch fleet vehicles located in a business customer's carpark; and
 - (v) the entering into of the MSA, including the Services Schedule, by the business customer.
- (b) Discounting Zilch provides in respect of private bookings made and paid for by a business customer's driver-employees through the business booking portal does not give rise to a "fringe benefit" for the purposes of s CX 2(1) because the benefit is:
- (i) not provided to the driver-employee through an arrangement between the business customer and Zilch for the purposes of s CX 2(2); or
 - (ii) excluded from being a fringe benefit by s CX 33.
- (c) Neither s GB 31 nor s GB 32 applies to the Arrangement.

The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 July 2022 and ending on 30 June 2025.

This Ruling is signed by me on the 3rd day of August 2022.

Howard Davis

Group Leader

Tax Counsel Office

About this document

Product Rulings are issued by the Tax Counsel Office and Customer and Compliance Services. Product Rulings set out the Commissioner's view on how tax laws apply to a particular "product" – which is an arrangement that a specified taxpayer is likely to enter into with a number of people on identical terms. Taxpayers who enter into the arrangement described in a Product Ruling may apply the ruling but are not obliged to do so. Product Rulings are binding on the Commissioner. This means that if you are entitled to apply a Product Ruling and you have calculated your tax liability in accordance with the ruling, the Commissioner must accept that assessment. A Product Ruling applies only to the taxation laws and arrangement set out in the ruling, and only for the period specified in the ruling. It is important to note that a general similarity to an arrangement covered by a Product Ruling will not necessarily lead to the same tax result.