

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 35

Issued by authority of the Assistant Treasurer

Income Tax Assessment Act 1997

Income Tax Assessment Amendment Regulations 2008 (No. 1)

Section 909-1 of the *Income Tax Assessment Act 1997* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the amending regulations is to insert the 'cents per kilometre' rates for calculating deductions for car expenses for the 2007-08 income year in Part 2 of Schedule 1 to the *Income Tax Assessment Regulations 1997* (the Principal Regulations).

Motor vehicle expenses incurred in the course of deriving assessable income or carrying on a business are tax deductible under section 8-1 of the Act. The taxpayer can calculate a deduction for car expenses using one of four specified methods outlined in Division 28 of the Act. The 'cents per kilometre' method in section 28-25 of the Act is one of the four methods available to taxpayers. To calculate the deduction under the 'cents per kilometre' method, the number of business kilometres the car travelled during the year of income is multiplied by a specified number of cents. The cents per kilometre rate is determined in relation to the car's engine capacity and is prescribed in the Principal Regulations. This method can be used for the first 5,000 business kilometres only. If a taxpayer wishes to claim more than 5,000 business kilometres, he or she must use one of the other methods outlined in Division 28 of the Act.

The number of cents used in the 'cents per kilometre' method are set out in Part 2 of Schedule 1 to the Principal Regulations. The rates are revised each year and the rates currently prescribed apply for the 2006-07 financial year. The rates in the Principal Regulations are based on the rates of motor vehicle allowance calculated by the Department of Education, Employment, and Workplace Relations for general use of the Australian Public Service and increase when there is an upward movement of the Private Motoring Subgroup within the Consumer Price Index.

The rates for the 2007-08 income year did not change from the 2006-07 rates and are as follows:

Description	Engine capacity of car not powered by a rotary engine (cubic centimetres)	Engine capacity of car powered by a rotary engine (cubic centimetres)	Rate per kilometre (cents)
Small car	Not exceeding 1600cc	Not exceeding 800cc	58
Medium car	Exceeding 1600cc but not exceeding 2600cc	Exceeding 800cc but not exceeding 1300cc	69
Large car	Exceeding 2600cc	Exceeding 1300cc	70

The Regulations are also relevant for the purposes of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986). The definition of 'basic car rate' in subsection 136(1) of the FBTAA 1986 provides that the rate is the same as that prescribed for the purposes of section 28-25 of the Act. 'Basic car rate' is used in the calculation of the taxable values of a number of fringe benefits.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.