



2021 FBT WORKSHOP

21st April 2021

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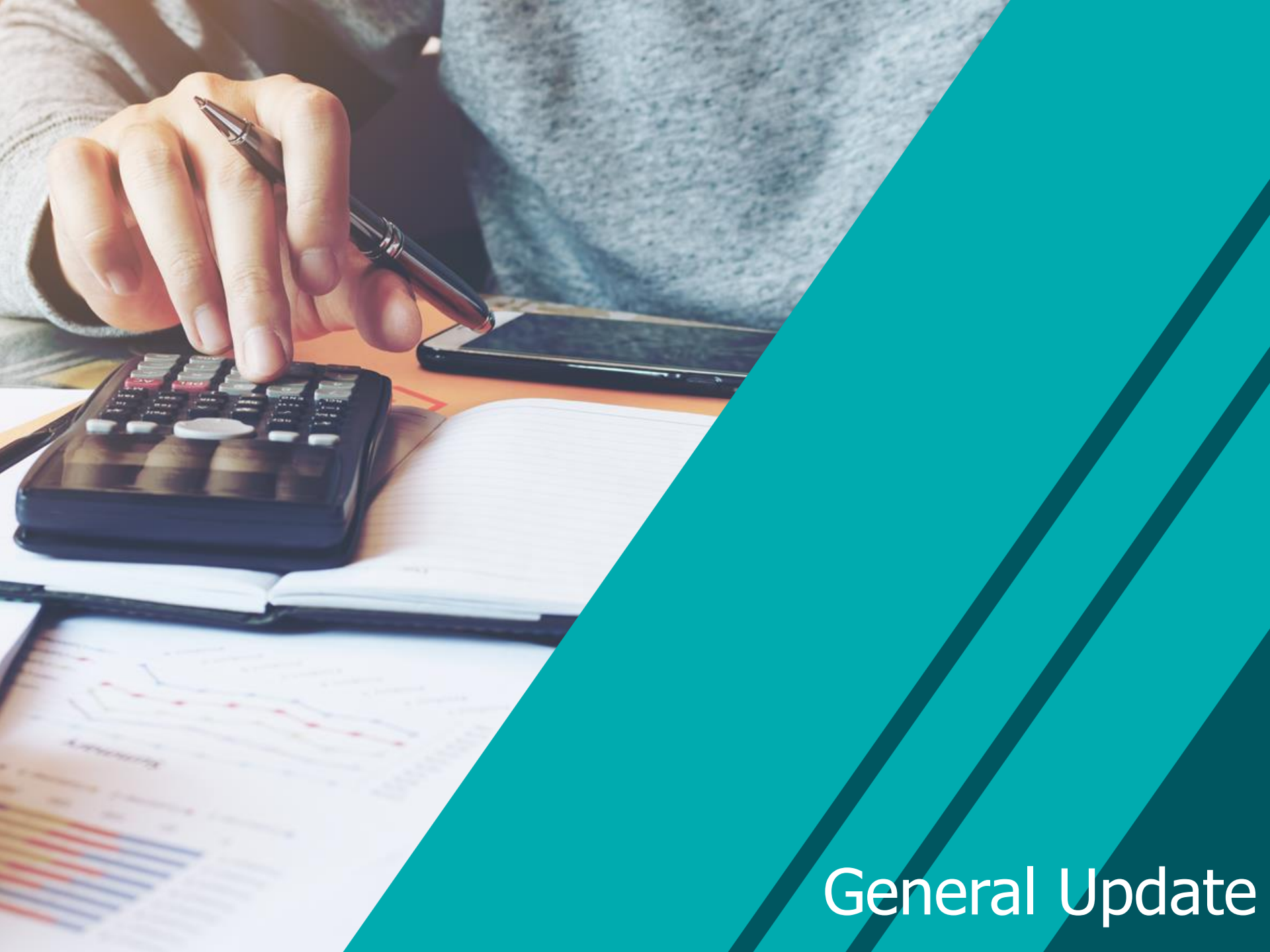
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AGENDA

- General Update
- FBT Compliance
- What's New For 2021
- FBT Administration
- Audit Activity
- Cars
- Car Parking
- Review & Lodgement





General Update

General Update

When Does FBT Apply?

When a fringe benefit is provided to:

- employee / associate of employee
- by employer, associate of employer or 3rd party by arrangement
- in respect of employment of the employee
- benefit is not specifically excluded

**FBT liability is imposed on employer,
not the provider of the benefit**

General Update

Fringe Benefit Categories

- Car fringe benefits – SFM / OCM
- Debt waiver fringe benefits
- Loan fringe benefits
- Expense payment fringe benefits
- Housing fringe benefits
- Living Away From Home Allowance
- Board fringe benefits
- Meal entertainment fringe benefits
- Car parking fringe benefits
- Property fringe benefits
- Residual fringe benefits

General Update

Key Concepts

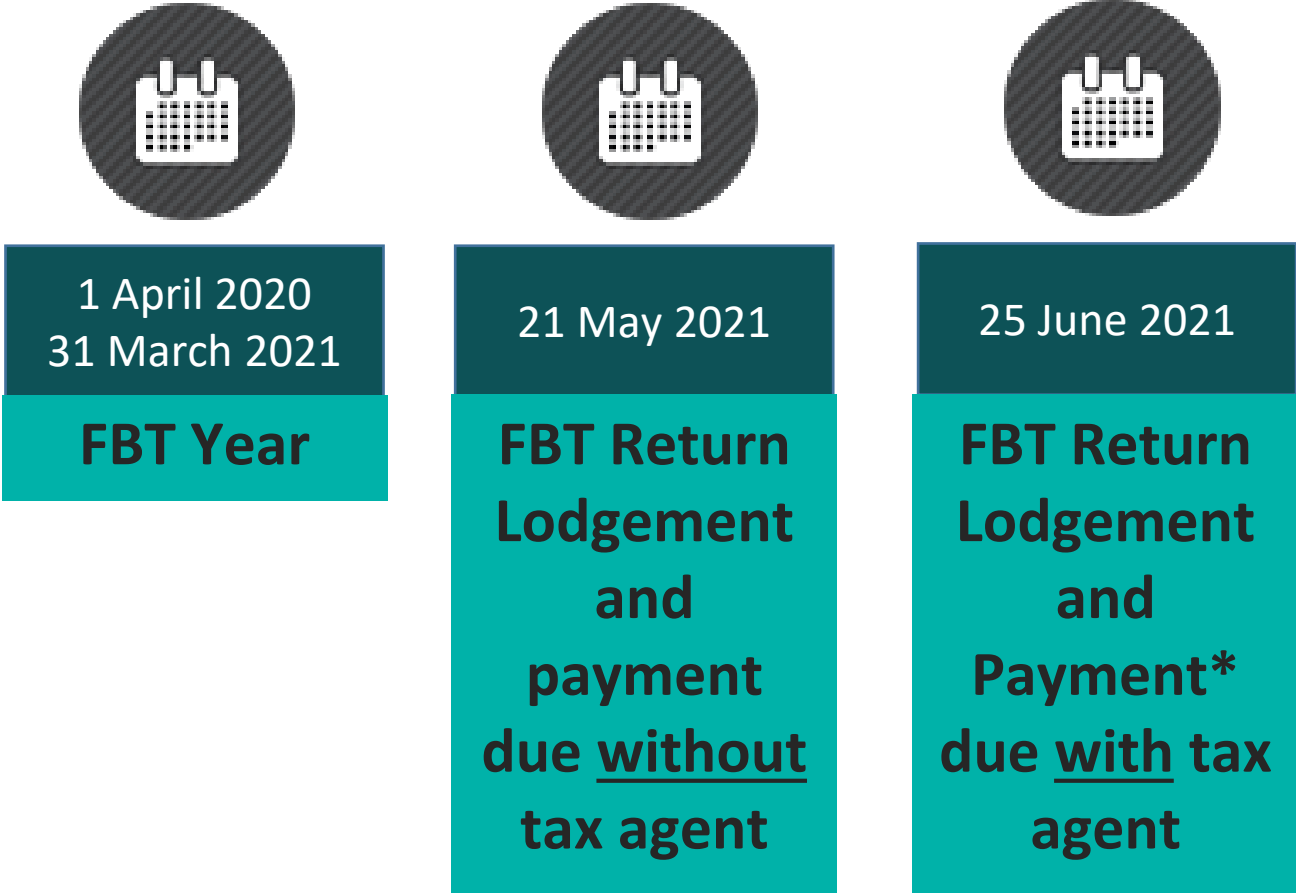
- FBT year – 1 April to 31 March
- FBT rate for 2021 year – 47%
- Top marginal individual tax rate is 47% for 30 June 2021
- FBT instalments paid quarterly (on BAS) - including March instalment
- Lodgement and payment
- Salary packaging arrangement

BENEFITS



General Update

2021 FBT Lodgement and Payment



- For 2021 the ATO extended payment date from 28 May to 25 June if lodging through a tax agent.

General Update

Rates and Thresholds

FBT Year	March 2020	March 2021	March 2022
FBT Rate	47%	47%	47%
<u>Gross Up Rate:</u>			
Type 1 Benefit	2.0802	2.0802	2.0802
Type 2 Benefit	1.8868	1.8868	1.8868

Tax Year	June 2020	June 2021	June 2022
Top Marginal Tax Rate	47%	47%	47%

General Update

Rates and Thresholds

- Benchmark interest rate for the 31 March 2021 FBT year is 4.80% (2022 4.52%)
- Motor vehicle (other than car) cents per kilometre rate (TD 2020/3):

FBT Year End	0 – 2500cc	Over 2500cc	Motor Cycles
31 March 2020	55	66	16
31 March 2021	56	67	17



General Update

Rates and Thresholds

- Car parking threshold \$9.15
- Deemed depreciation rates for cars (operating cost):

Date Car Purchased	Depreciation Rate
Up to & including 30 June 2002	22.5%
1 July 2002 to 9 May 2006	18.75%
On or after 10 May 2006	25%

General Update

Rates and Thresholds

- LAFHA – Reasonable food and drink component (Australia):

	Per Week
One Adult	\$276
Two Adults	\$414
Three Adults	\$552
One Adult and One Child	\$345
Two Adults and One Child	\$483
Two Adults and Two Children	\$552
Two Adults and Three Children	\$621
Three Adults and One Child	\$621
Three Adults and Two Children	\$690
Four Adults	\$690

- TD 2020/4 – FBT year ending 31 March 2021

General Update

Rates and Thresholds

- 2021 FBT year – certain FBT exemptions and reductions

Type of Benefit	Exemption/Reduction
Minor Benefit Exemption Threshold	Less than \$300
	Infrequent and irregular
	Exempt from FBT
Otherwise Deductible Rule	A reduction in the taxable value if the employee would have been entitled to claim the amount as an income tax deduction

General Update

Rates and Thresholds

- 2021 FBT year – certain FBT exemptions and reductions

Type of Benefit	Exemption/Reduction
Long Service Awards Exemption Threshold	$\$1,000 + [\$100 \times (RLS - 15)]$ RLS = number of whole years of service
Safety Awards Exemption Threshold	\$200 per employee, per FBT year
In-House Benefits Reduction	\$1,000 per employee, per FBT year

General Update

Rates and Thresholds

- The reportable fringe benefits threshold for the 2021 FBT year is **\$2,000**
- Grossed-up by **1.8868** Type 2 (minimum \$3,773)
- Recorded on payment summary



General Update

Rates and Thresholds: Not-for-profit

- Capping threshold for the 2021 FBT year:

Type of Employer	Grossed-up taxable value (per employee)	Non-grossed-up taxable value equivalent (Type 1)	Non-grossed-up taxable value equivalent (Type 2)
FBT-exempt employers			
Hospitals and Public Ambulance Services	\$17,000	\$8,172	\$9,009
PBI's and Health Promotion Charities	\$30,000	\$14,421	\$15,899
FBT-Rebatable Employers (e.g. private schools)	\$30,000	\$14,421	\$15,899

Full FBT applies if caps exceeded, except for:

- Car parking; and
- Employer provided entertainment

Salary Packaged Entertainment is Reportable on the Employee Payment Summary

General Update

Rates and Thresholds: Not-for-profit

- Salary packaged meal entertainment and entertainment facility leasing expenses:

Type of Employer	Grossed-up taxable value (per employee)	Non-grossed-up taxable value equivalent (Type 1)	Non-grossed-up taxable value equivalent (Type 2)
FBT-exempt employers			
Hospitals and Public Ambulance Services	\$5,000	\$2,403	\$2,649
PBI's and Health Promotion Charities	\$5,000	\$2,403	\$2,649
FBT-Rebatable Employers (e.g. private schools)	\$5,000	\$2,403	\$2,649

General Update

FBT Exempt and Rebatable Employers

TAKEAWAY MEALS NOW ALLOWED IN MEAL ENTERTAINMENT SALARY PACKAGING IN THE 2020 AND 2021 FBT YEARS

Many not-for-profit employers offer salary packaging of meal entertainment to employees within an annual capped amount. This includes dine-in meals, and excludes takeaway / home delivery.

With the recent COVID-19 closure of restaurants for dine-in options, it is almost impossible for employees to access salary packaged meal entertainment.

The ATO has issued guidance stating they will not review meal entertainment salary packaging arrangements:

- in the 2020 FBT year, during the period when restaurants and public venues were closed; nor
- in the 2021 FBT year where the supplier of the meal was an eligible supplier as at 1 March 2020



FBT Compliance

FBT Compliance

- Potential application to all fringe benefits
- Reportable fringe benefits regime – 1 April 1999
- Goods and Services Tax – 1 July 2000
- Two key concepts for all fringe benefits:
 - GST inclusive taxable values
 - Reportable benefits

FBT Compliance

Type 1 Benefits

- Benefits for which the benefit provider is entitled to claim GST input tax credits
- If a tax invoice does not exist, still Type 1 gross up
- Type 1 gross-up rate of 2.0802 applies
- Taxable value is inclusive of GST

FBT Compliance

Type 2 Benefits

- Benefits that are not GST-creditable benefits
- Benefits for which the benefit provider is not entitled to claim GST input tax credits
- **Where no GST has been charged**
- **Type 2 gross-up rate of 1.8868 applies**
- Taxable value is inclusive of GST where GST has been charged

FBT Compliance

Employee Contributions – Tax Obligations

Employees often make after tax contributions in respect of Novated Leases & Car Parking

- GST is payable on an after tax employee contribution for fringe benefit's that are GST taxable
- No GST liability in relation to employee contributions on GST-free or input taxed supplies (Type 2 benefits)
- The amount of GST payable is one eleventh of the contribution (i.e. \$110 contribution = \$10 GST liability)
- Only applies to cash contribution made to employer, not contribution made to a 3rd party
- Reduce taxable value for FBT by GST inclusive amount
- Ten elevenths is assessable income in company ITR

FBT Compliance

FBT Return Form – Employee Contributions

**Fringe benefit
employee
contributions**

23 Details of fringe benefits provided

Type of benefits provided (1 April 2018 to 31 March 2019)	Number	WHOLE DOLLARS ONLY			
		Gross taxable value (a)	Employee contribution (b)	Value of reductions (c)	Taxable value of benefits (a) – (b) – (c)
Cars using the statutory formula	A				
Cars using the operating cost method	B				
Loans granted	C				
Debt waiver	D				
Expense payments	E				
Housing – units of accommodation provided	F				
Employees receiving living-away-from-home allowance (show total paid including exempt components)	G				
Board	J				
Property	K				
Income tax exempt body – entertainment	L				
Other benefits (residual)	M				
Car parking	N				
Meal entertainment	P				

FBT Compliance

Income Tax Return Form – Label I

Information statement – To be completed by all companies

6 Calculation of total profit or loss

Income

Gross payments subject to foreign resident withholding (excluding capital gains)	B	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Gross payments where ABN not quoted	A	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Other sales of goods and services	C	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Gross distribution from partnerships	D	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Gross distribution from trusts	E	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Forestry managed investment scheme income	X	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Gross interest	F	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Gross rent and other leasing and hiring income	G	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Total dividends	H	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Fringe benefit employee contributions	I	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Assessable government industry payments	Q	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Unrealised gains on revaluation of assets to fair value	J	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Other gross income	R	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>
Total income	S	\$	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	,	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>	·	<input type="text"/>	<input type="text"/>

**Fringe benefit
Employee
contributions**

FBT Compliance

Reportable Benefits

- What is a reportable fringe benefit?
 - Fringe benefits reported on PAYG payment summaries (group certificates)
- Why are reportable fringe benefits required?
 - Growth in non-cash benefits
 - Means of capturing total remuneration provided to employees
- Based upon the entity's FBT return
 - Total taxable value must be $> \$2,000$ for each employee
 - Gross up factor is always Type 2, regardless of whether underlying benefit is Type 1 or Type 2

FBT Compliance

Reportable Benefits

- All benefits are reportable, unless specifically excluded
- Excluded benefits
 - Exempt benefits
 - Meal entertainment (excl. Salary Packaged)
 - Entertainment facility leasing (excl. Salary Packaged)
 - Car parking
 - Certain remote area benefits
 - Certain defence force benefits
 - Personal security services
 - Pooled or shared **cars** (excludes non cars) DECLARATION FROM EMPLOYEES TO SUBSTANTIATE

Importantly:

Excluded benefits are still subject to FBT (unless they are exempt benefits)

FBT Compliance

Reportable Benefits

- What are the reportable benefits used for?
 - Liability to the Medicare levy surcharge
 - Child support payments and benefits
 - Recovery of HELP debt (previously known as HECS)
 - Income tests for youth allowance, family tax benefit and childcare benefit (non-grossed up taxable value)
 - Personal and spouse's super contribution rebate

RFB's can affect individual employees

Therefore, need to get them right!

WHAT'S NEW?



in 2021

New for 2021

Retraining and Reskilling Exemption

The government has announced its intention to introduce an exemption from fringe benefits tax (FBT) for retraining and reskilling benefits provided by employers to redundant, or soon to be redundant employees where the benefits may not be related to their current employment.

It is proposed that this exemption will not apply to:

- retraining provided under a salary packaging arrangement
- training provided through Commonwealth supported places at universities
- repayments towards Commonwealth student loans.

This measure is intended to apply from the day it was announced - Friday, 2 October 2020.

New for 2021

Small Business Exemptions Extended

Portable electronic devices

From 1 April 2021, access to the FBT exemption for the provision of multiple work-related portable electronic devices will be extended to eligible employers with an aggregated turnover of less than \$50 million (currently less than \$2 million)

Primarily used for work test applies to each device.

Small business car parking

From 1 April 2021, access to the FBT exemption for small business car parking will be extended to eligible employers with an aggregated turnover of less than \$50 million (currently less than \$10 million).

Excludes parking provided at a commercial parking station and excludes salary packaging arrangements.



New for 2021

COVID and Car Parking Fringe Benefits



ATO guidance on common car parking scenarios:

1. The 'work car park' has been closed e.g., because office is closed and staff are working from home, so no car parking is actually being provided. **There would be no FBT on car parking.**
2. The commercial parking station(s) within 1km are all closed at a particular point in time or have stopped charging for their services and are only offering free parking. **It is necessary to test if a liability arises at 1 April 2020.**
3. The commercial parking station(s) within 1km are still open but are offering discounted parking that is below the (\$9.15) threshold.

The threshold is only tested on 1 April 2020, so the commercial parking station(s) would need to have been discounted below the threshold on that date. In addition, the discount needs to meet the 'representative' requirement by comparing to the average rate in the 4 weeks prior to 1 April 2020 or the 4 weeks post 1 April 2020.

New for 2021

COVID and Car Fringe Benefits



The ATO has issued the COVID-19 and car fringe benefits [fact sheet](#) providing guidance on how an employer's obligations relating to work cars may be impacted by the COVID-19 pandemic and how to calculate FBT liability.

The fact sheet explains that where a car is garaged at an employee's home and is not driven or is only being driven for the purpose of maintaining the car, the ATO will accept that an employer is not holding the car for the purposes of providing fringe benefits.

In these situations, **provided an employer elects to use the "operating cost" (cost basis) method**, there will be a nil taxable value for the car and no FBT liability. An employer must elect to use the cost basis method (which is status quo requirement in any event) in writing before lodging their FBT return for the year.

Odometer records should be maintained to show that, during the period the car is garaged, it has not been driven, or has only been driven briefly for the purpose of maintaining the car.

New for 2021

COVID Emergency Assistance

Accommodation, food and transport (section 58N)

You will not have to pay FBT if you provide emergency accommodation, food, transport or other assistance to an employee if:

- the benefit is emergency assistance to provide immediate relief, and
- the employee is, or is at risk of being, adversely affected by COVID-19.

In the context of COVID-19, the FBT emergency assistance exemption applies if you provide emergency accommodation, food, transport or other assistance to an affected employee. For example:

- expenses incurred relocating an employee, including paying for flights home to Australia
- expenses incurred for food and temporary accommodation if an employee cannot travel due to restrictions (domestic, interstate or intrastate)
- benefits provided that allow an employee to self-isolate or quarantine
- transporting or paying for an employee's transport expenses including car hire and transport to temporary accommodation.

New for 2021

COVID Emergency Assistance

Temporary accommodation and meals for fly-in fly-out and drive-in drive-out employees (section 58N)

You will not have to pay FBT for benefits considered emergency assistance. This includes providing temporary accommodation and meals to fly-in fly-out or drive-in drive-out employees who are unable to return to their normal residence due to COVID-19 domestic and international travel restrictions.



New for 2021

Working From Home

Work laptop or other portable electronic device

Certain eligible work-related items that you have given or loaned to your employee or have reimbursed them for the expenditure are exempt from FBT if the item is:

- primarily for use in the employee's employment
- not a duplicate of something that has already been provided in the FBT year (unless it is a replacement).

An 'eligible work-related item' includes:

- a portable electronic device
- computer software
- a tool of trade.

Examples of portable electronic devices include laptops, tablets, smart phones and calculators.

However, a desktop computer would not be considered a portable electronic device.

New for 2021

Working From Home

General office equipment

General office equipment includes desks, chairs, cabinets, stationery, computer peripherals and other items generally available for use in an office setting.

How FBT applies to general office equipment depends on how you provide those benefits to your employee:

- If the item is lent out to your employee or made available for their use, the provision of the item is a residual benefit.
- If the item is given to your employee, you have provided a property benefit.
- If you have reimbursed your employee for expenses they have incurred in acquiring office equipment, you have provided an expense payment benefit.

New for 2021

COVID 19 and cancelled events

Cancelled Staff Event

- Expense is not tax deductible
- No GST can be claimed
- No fringe benefit is provided, therefore the amount is excluded from the FBT calculation
- Gifts in lieu of Christmas parties (consider minor benefit rule)



Travel-Related Benefits

New for 2021

Employee Travel Rulings

Determining the correct FBT treatment of employee accommodation and meal expenditure largely hinges on whether the employee is considered to be:

- **Travelling (overnight) on work** – otherwise deductible, generally deductible 8-1.
- **Living away from home (LAFH)** - > 90 days and no more than 21 days continuous ('otherwise deductible' rule has no application, employer may be able to pay a LAFHA to reduce FBT).
- **Or has the employee relocate** – all costs are private in nature, limited exemptions.

New for 2021

Employee Travel Rulings

On 17 February 2021, the Australian Taxation Office (ATO) published three new products relating to the tax treatment of travel expenditure:

- Taxation Ruling (**TR**) **2021/1** Income tax: when are deductions allowed for employees' transport expenses?;
- Draft Taxation Ruling **TR 2021/D1** Income tax and fringe benefits tax: employees: accommodation and food and drink expenses, travel allowances, and living-away-from-home allowances; and
- Draft Practical Compliance Guideline (**PCG**) **2021/D1** – Determining if allowances or benefits provided to an employee relate to travelling on work or living at a location – ATO compliance approach.

It should be noted that TR 2021/D1 and PCG 2021/D1 are in draft. The ATO notes that TR 2020/1, TR 2021/D1, and PCG 2021/D1 are intended to be read in conjunction with each other.

New for 2021

Employee Travel Rulings – PCG 2021/D1

PCG 2021/D1 reintroduces the **21-day rule** in relation to business travel (as set out in 1986 ruling MT2030 withdrawn).

PCG 2021/D1 includes a requirement that travel to the same work location must be for an overall aggregate period of **fewer than 90 days** in a fringe benefits tax (FBT) year, for the travel to continue to be treated as travel on work.

The guideline is focused on providing practical guidance to assist in determining whether an allowance paid by an employer to an employee is paid for:

- Travelling on work, which will be a travel allowance subject to PAYG withholding; or
- Living at a location, which may be a LAFHA benefit and subject to FBT.

The guideline also assists in determining whether amounts reimbursed or paid by an employer would have been deductible to the employee had they purchased the goods or services themselves.

New for 2021

Employee Travel Rulings – PCG 2021/D1

PCG 2021/D1 states that the Commissioner will generally accept an employee is traveling **on work** when the following circumstances are satisfied:

The Employer	The Employee
<ul style="list-style-type: none"> • Provides an allowance to an employee or pays or reimburses accommodation and food and drink expenses for the employee • Does not provide the reimbursement or payment as part of a salary-packaging arrangement and the employee is not given the option to elect to receive additional remuneration in lieu • Includes the travel allowance on the employee’s payment summary or income statement and withholds tax, where appropriate • Obtains and retains the relevant documentation to substantiate the fact that all these circumstances are met 	<ul style="list-style-type: none"> • Is away from their normal residence for work purposes • Does not work on a fly-in fly-out or drive-in drive-out basis • Is away for a short-term period being: <ul style="list-style-type: none"> • No more than 21 days at a time continuously; and • An overall aggregate period of fewer than 90 days (that is, the most being 89 days) in the same work location in an FBT year, and • Must return to their normal residence when their period away ends

New for 2021

Examples:

- 1) Employee lives in Sydney and accepts a job in Brisbane. If employee chooses to stay overnight in hotel accommodation near their workplace (Brisbane) to avoid the long commute, then the overnight travel is considered private.
- 2) Employee required to travel overnight for 10 day interstate work trip – the employee would be considered to be travelling overnight on work and accommodation and meals would be otherwise deductible.
- 3) Employer sends employee on a four month secondment to another office – employee stays in hotel accommodation – the employee is considered to be LAFH, costs are 'not otherwise deductible', however a LAFHA may be exempt. (Note as > 90 days will not be treated as travelling overnight on work).

FBT Administration

10 ways to use FBT



FBT Administration

Record Keeping

Record keeping requirements

- employers are required to keep records that identify and explain all transactions and acts that are relevant to establish their FBT liability

Records must show

- taxable value of fringe benefits provided to each employee
- method of allocating the taxable value of a fringe benefit provided to two or more employees
- that 100% of taxable value of reportable benefits has been allocated to employees
- records must be kept for 5 years

FBT Administration

Record Keeping

Penalties

- Late payment penalties if instalments or final payments are paid late
- Penalty tax for incorrect FBT returns

Amendments by ATO

- Within 3 years from lodgement date
- **Failure to register – NO TIME LIMIT**
- Non-disclosure – 6 years
- Fraud or evasion – no time limit
- ATO will not accept correcting past mistakes in current year FBT return
- When amending FBT, it may be necessary to amend employee reportable / payment summary

Public officer declaration for FBT Return, Nil FBT Return or Notice of Non-Lodgment

“I declare that the information in this return is true and correct”



Rebateable Employers

Rebateable Employers – e.g. Private Schools

- Discounted school fees
 - Market price x 75% - \$1,000 (per employee) = taxable value
 - Sibling discounts
 - Scholarships
 - Not part of a packaging arrangement
- Housing Benefits
 - Valuation - indexation
- Exempt Vehicles
 - Dual Cab / Utes grounds person
- Entertainment
 - \$300 minor benefit has limited application
 - GST

Rebateable Employers - Schools

▪ Employee Contributions

- Must be from after tax dollars

▪ Religious Practitioner

- ACNC Registration (sub type – advancing religion)
- TR 2019/3

▪ Cap – Grossed up \$30,000

- Cash spend \$14,421 Type 1 / \$15,899 type 2)
- Rebate 47%
- Excess, no rebate
- Check items excluded from the cap



Audit Activity

Audit Activity

ATO Reviews

- Increased/additional audit activity in relation to FBT
- Concerns about level of compliance
 - Cars purchased by employers with no FBT disclosed in FBT return or employee contributions
 - RFBA disclosed on payment summaries with no FBT return lodged
 - Eligibility of claims for FBT-exemptions or rebates
 - LAFHA
 - Failure to identify fringe benefits provided
 - Incorrect calculations or reduction amounts



Audit Activity

ITRs & BAS

- ATO reviewing ITRs and BAS
 - Employee contributions
 - Contractors
 - Motor vehicle expenses
 - Income in tax return matches it FBT return lodged (is one required?)
 - Superannuation expenses
 - Indicates employees (are benefits provided?)
 - More wages – more FBT (ATO)

Audit Activity

Financial Statements

- ATO reviewing financial statements
- Identify undeclared fringe benefits
 - Employee amenities
 - The cost of food and drink provided at a staff social function
 - Travel costs associated with a staff social function
 - Gifts (to employees or their associates)



Audit Activity

Financial Statements

- ATO reviewing financial statements
- Identify undeclared fringe benefits
 - Advertising and promotional expenses
 - Often includes non-advertising or promotional benefits (FBT issues)
 - Marketing or corporate sponsorship
 - Sponsorship package
 - Free tickets (NRL, AFL etc...)
 - Invitations to social functions (e.g. award nights)
 - Meal entertainment
 - Recreation benefits

Audit Activity

Financial Statements

- ATO reviewing financial statements
- Identify undeclared fringe benefits
 - Business travel-related expenses
 - Employee extends their interstate / overseas business trip for private purposes
 - Employee exchanges a business class ticket for multiple lower class tickets used by the employee's associates



Audit Activity

Financial Statements

- ATO reviewing financial statements
- Identify undeclared fringe benefits
 - Donations relating to fundraising events
 - Employers using the value of cars reported in financial statements for FBT purposes

Audit Activity

Example



- Taskmaster Pty Ltd books a table for 10 people at an annual charity ball held in Sydney. Charity is a DGR
- Cost of table \$10,000 (includes a \$6,000 donation)
- 5 employees and their spouses attend
- Auction occurred at event and \$1,000 Artwork was acquired on company credit card. Artwork is given to one of the spouses

Audit Activity

Example

- Total cost of evening of \$11,000 is expensed as a donation by accountant
- Only \$6,000 is tax-deductible donation to charity and not subject to FBT
- \$4,000 is meal entertainment to employees (and associates) (subject to FBT)
- \$1,000 for Artwork is a property fringe benefit (subject to FBT)

Audit Activity

Audit Areas

- Living Away From Home benefits
 - Mistakes in applying LAFH conditions
 - Maintain Australian home
 - 12 month requirement
 - Declaration requirement





Cars

Cars

What is a 'car'?

- A motor vehicle (i.e. a motor powered road vehicle including a 4 wheel drive) designed to carry:
 - < 1 tonne; and
 - < 9 passengers
- Includes hire cars – where the hire period > 12 continuous weeks
- Motor cycles and vehicles that carry > 1 tonne or > 8 passengers are NOT car fringe benefits
 - But – may fall under the residual benefit provisions

Cars

Are there any exemptions?

- ▶ A panel van or utility truck designed to carry a load of < 1 tonne, or
- ▶ Any other road vehicle designed to carry a load of < 1 tonne and not principally designed to carry passengers – is an exempt car IF:
 - private use is limited to home to work travel, and
 - other private travel is minor, infrequent or irregular.
- ▶ Once private travel is more than minor, infrequent or irregular, the car is subject to FBT in the usual way
- ▶ ATO take a very narrow view on the definition of minor, infrequent or irregular, consider a logbook

Cars

TOOL OF TRADE / WORK RELATED VEHICLES



Car

Tool of Trade and Work Related Vehicles

ATO shines the spotlight on FBT & Utility Vehicles

Practical Compliance Guideline PCG 2018/3 Exempt car and residual benefits: compliance approach to determining private use of vehicles was released in final by the ATO on 11 July 2018.

The much anticipated PCG on exempt vehicles and determining private use has been released by the ATO. Without doubt, the PCG shines a strong spotlight on the FBT obligations and potential risk for work related and tool of trade vehicles (Eligible Vehicles) including vans, panel vans, utilities, single cabs and dual cabs.

CLOSING THE LOOPHOLE ON THE VEHICLE PERK!

Cars

ATO shines the spotlight on FBT & Utility Vehicles

In order to rely on the PCG, the following criteria apply:

- a) the employer provides an *eligible vehicle* to a current employee
- b) the vehicle is provided to the employee to perform their work duties
- c) “the employer has a policy in place that limits private use of the vehicle and obtain assurance from your employee that their use is limited”
- d) the vehicle had a GST-inclusive value less than the luxury car tax threshold (\$66,331 or \$75,526 for fuel efficient vehicles)
- e) the vehicle is not provided as part of a salary packaging or remuneration arrangement

Cars

ATO shines the spotlight on FBT & Utility Vehicles

Travel criteria:

- I. travel between their home and their place of work and any diversion adds no more than **two kilometres** to the ordinary length of each trip;
- II. no more than **1,000 kilometres** in total for each FBT year for multiple journeys taken for a wholly private purpose, and
- III. no single, return journey for a wholly private purpose exceeds **200 kilometres**.

Cars

ATO shines the spotlight on FBT & Utility Vehicles

“the employer has a policy in place that limits private use of the vehicle and obtain assurance from your employee that their use is limited to use as outlined”

In relation to obtaining assurance from your employee, this can be in the form of a declaration, however as an employer you must be satisfied (on reasonable grounds) as a result of this assurance that the private use of the vehicle was limited.

In summary, you can request a declaration from your employee, however it is still the employers responsibility to be satisfied that the private use was limited as required. There is no approved ATO format for the declaration.

Cars

ATO shines the spotlight on FBT & Utility Vehicles

Not eligible to claim an exemption?

Vehicles – Under 1 tonne (car)

Value fringe benefit using:

1. Statutory Formula Method; or
2. Logbook Method

Vehicles – Over 1 tonne (non-car, residual benefit)

Value fringe benefit using:

1. Logbook Method; or
2. Cents per KM Method if limited private travel

Cars

ATO shines the spotlight on FBT & Utility Vehicles

Valuation of Benefits

Cars


- Statutory formula method; or
- Operating cost method (election)

Non cars – residual benefits (cents per km or logbook)

- 0 - 2500 cc 56 cents (55 cents in 2020)
- Over 2500 cc 67 cents (66 cents in 2020)
- Motorcycle 17 cents (16 cents in 2020)

Cars

Statutory Formula Method



$((A \times B \times C) \div D) - E$	$((\$50,000 \times 20\% \times 365) \div 365) - \0 <hr/> <p>FBT cost = \$10,000</p>
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Cars

Statutory Formula – Base Value

- **Earliest holding time**
- **Inclusions**
 - Purchase cost, GST, dealer delivery, fleet discounts
 - Non-business accessories (e.g., alarm, stereo) - must be paid for by the employer
 - Employee trade-ins or contributions direct to the dealer
- **Exclusions**
 - Stamp duty
 - Registration
- **One third reduction**
 - Held for more than four FBT years at beginning of FBT year, therefore, before 1 April 2016 for 2021 FBT year
 - The cost of non-business accessories added later cannot be reduced

Cars

Statutory Formula – Days Benefit Provided

- **Statutory Formula Method is premised on Actual or Deemed private use**
- **Unless can prove otherwise, private use exists**
- **Includes (actual and deemed):**
 - garaged at or near employee's home
 - garaged at business premises and used for private purposes
 - garaged elsewhere and no prohibition on private use
 - associate business or private use
- **Excludes:**
 - garaged at commercial storage facility and employee does not have custody and control and there is a prohibition on private use
 - services / repairs
 - car impounded at business premises and not used for private purposes
 - Must be full 24 hour day

Cars

Statutory Formula – Employee Contribution

- Employee pays for car expenses including:
 - fuel and oil - reasonable estimate, invoices, declaration
 - rego, insurance, r&m, car wash, non-fuel card - document showing:
 - name of supplier
 - amount of expense
 - nature of goods/services acquired
 - date expenses were incurred
 - date of invoice
- GST inclusive value of above expenses should be included
- After tax cash contribution
 - subject to GST & Income Tax


Cars

Statutory Formula – Employee Contribution

- Carry forward
- Excess contribution
 - Rollover to next year
 - Refund to employee

Cars

Operating Cost Method



$((A \times B \times C) \div D) - E$	$\frac{((\$50,000 \times 20\% \times 365) \div 365) - \$0}{}$ <p>FBT cost = \$10,000</p>
$(A \times B) - C$	$\frac{(\$10,000 \times 20\%) - \$0}{}$ <p>FBT cost = \$2,000</p>

Cars

Operating Cost Method

$$(C \times (100\% - BP)) - R$$

Where:

- C = operating costs of the car
- BP = the business percentage for the car
- R = recipient's contribution

Cars

Operating Cost Method

- Actual expenses (employer or employee)
 - Lease payments (only if leased, includes luxury car lease)
 - Registration
 - Insurance
 - Repairs, auto club, car washes
 - Fuel and oil
 - GST inclusive

- Deemed – car must be owned
 - Depreciation
 - Interest

Cars

Operating Cost Method

- Operating costs (leased or owned) **exclude:**
 - Bridge and road tolls
 - Car parking
 - Repairs paid by insurance company
 - Personal purchases

Cars

Operating Cost Method

Business Use Percentage

Logbook Year

- Logbook must be maintained for a minimum 12 week continuous period to use this method
- Logbook requirements:
 - date journey began and finished
 - odometer readings at start and finish
 - kilometres travelled (do not annualise)
 - **purpose of the journey**
- Each journey must be recorded as soon as practically possible after the completion of the journey

**** If Purpose is described as Work or Business = Private! ****

Cars

Operating Cost Method

Non-Log book year - log book once every 5 years but not a set and forget

■ Four requirements:

- odometer records must be maintained. These should record the odometer readings at the beginning and end of the holding period, ie the period in a year of tax during which the car is held;
- the employer must specify the estimate of the number of "business kilometres" travelled by the car during the holding period;
- the employer must specify a percentage as the "business use percentage" applicable to the car in relation to the recipient for the holding period; and
- must be specified in writing before lodgement of the FBT Return

Cars

Operating Cost Method

Logbook: Business vs Private

Examples of a business journey for Logbook purposes:

- Travel from the employee's home to client's premises
- Travel from the client's premises to employee's home
- Travel from client's premises to client's premise
- Travel from client's premises to employer's premise
- Travel from employer's premise to client's premises
- Travel to undertake work shopping (eg Bunnings)

Not considered to be a business journey for Logbook purposes:

- Travel from employee's home to employer's premises
- Travel from employer's premises to employee's home

Cars

Operating Cost Method

Deemed Depreciation

$$ABC \div D$$

Where:

A	=	depreciable cost of the car
B	=	25% (if acquired after 9 May 2006) 18.75% (if acquired after 1 July 2002) 22.5% (if acquired before 1 July 2002)
C	=	number of days car was held
D	=	365

Tax depreciation limit (\$59,136) is **not** relevant

Cars

Operating Cost Method

Deemed Interest

$$ABC \div D$$

Where

- A = depreciated value of the car
- B = statutory interest rate for relevant year
4.80% for 2021 FBT year
- C = number of days the car was owned
- D = 365



Car Parking

Car Parking

Exceptions/Exemptions

- Motor vehicle is not a car
 - Parking provided for a motor cycle or bicycle is exempt
 - Parking provided to a non-car (over 1 tonne) = no FBT
 - Parking provided to an exempt car is subject to FBT
- Exemption for employers who are non-profit scientific, religious or public educational institutions
- Car parking space dedicated for use by disabled persons is exempt (person holds official disabled parking permit)
- Small business exemption - income < \$10m and car parking provided is not at a commercial parking station
- Parking dedicated for visitors is not subject to FBT

Car Parking

Taxable Car Parking Benefit

Mandatory Conditions

- Car is parked at premises that are owned, leased or otherwise under the control of the employer
- A Commercial Parking Station charges more than the annual threshold (\$9.15 for 2021, \$8.95 for 2020) for all day parking and is located within 1 km of the parking facility on the first day of the FBT Year (i.e. 1 April 2020) - all day parking refers to a continuous period of at least 6 hours between the hours of 7am and 7pm
- Car parked in the **vicinity** of primary place of employment
- Employee has a primary place of employment

Car Parking

Taxable Car Parking Benefit

Other Daily Conditions (if not using Statutory Formula Method to count number of benefit days)

- ▶ Car is parked for a total aggregate period of more than 4 hours between 7am and 7pm on any day
- ▶ The car travels between the employee's home and primary place of employment on that day (at least a 1 way trip is required to satisfy this test)

Car Parking

What Is A Commercial Parking Station?

A commercial parking station is a permanent facility where:

- any or all of the car parking spaces are available
- in the ordinary course of business
- to members of the public for all day parking
- on that day on payment of a fee

Car Parking

What Is A Commercial Parking Station?

TR 2019/D5* issued November 2019. The ATO have broadened the definition of a commercial parking station:

- **NEW** a parking station that charges “penalty rates” for
 - short term shoppers and hotel guests (*includes suburban shopping centres*)
- **NEW** on-line parking providers
- **NEW** only one car space needs to be available to the public, for commerciality to exist (similar to broad definition of “carrying on an enterprise”)
- **NEW** Car parks with certain restrictions – Airports, Hospital and University car parks
- **New ATO view applies from 1 April ~~2020~~ 2022 to allow transition**

Car Parking

The '1 km Radius'

Measuring 1km radius:

- shortest practicable direct route by foot, car, boat etc
- 1 km measured from car entry point of the business premises/parking facility to the car entry point of the commercial parking station

Car Parking

Liability to FBT?

The statutory daily threshold test for the 2021 FBT year is assessed at 1 April 2020. The daily threshold is \$9.15 incl. GST.

If a commercial car parking station within a 1km radius charges above \$9.15 as it's lowest rate on 1 April 2020, then FBT will apply for the 2021 FBT year.

\$13

\$4

\$10

\$6

Lowest all day parking fee per day at 1 April 2020

(\$9.15 CPT)

\$2

Car Parking

Taxable Value

Taxable value =
(Number of car parking benefits
multiplied by
value of benefits)
less
employee contribution



Car Parking

Number of Benefits – Statutory Formula Method

- Minimal record keeping required
- Benefits are deemed to arise on 228 days (or pro-rate for part year) in the FBT year
 - number of spaces x 228 days
 - **always** use 366 days as denominator for full year
- Example calculations

Full Year	→	Daily Rate	x	228	x	$\frac{365}{366}$	x	Number of Spaces
Part* Year	→	Daily Rate	x	228	x	$\frac{90}{366}$	x	Number of Spaces

(* e.g. 1 Jan start)

Car Parking

Calculation – Statutory Formula Method

- 10 spaces provided from 1 April 2020 to 31 March 2021
- Lowest daily rate within 1km at 1 April 2020 = \$13
- Lowest daily rate within 1km at 31 March 2021 = \$17
- Average cost = \$15

Total FBT = 10 spaces x \$15 x 228 days x (365/**366**) x 2.0802 x 47% = \$33,345

FBT per space = \$3,334

Days where parking is not used are irrelevant – above is based on 228 Statutory days per space for a full FBT year.

Car Parking

Number of Benefits – Actual Method

- The employer must maintain suitable comprehensive records to accurately determine when a car parking fringe benefit arose, for example, must be able to show which car was parked in which space and for how long.
- Onerous record keeping requirements
- May be beneficial where few car parking benefits are provided to employees during the FBT year (i.e., parking spaces are often vacant or used for less than 4 hours each day)

Car Parking

Number of Benefits – 12-Week Register Method

- Like the actual method but a detailed register is kept for 12 continuous weeks. The register is then valid for that FBT year and the next four FBT years
- 12 week register method can generate significant FBT savings for up to 5 FBT years
- This method is rarely used, but often should be due to employees frequently:
 - On travel / leave
 - Parking for less than 4 hours
 - Parking for a full 24 hour period
 - Sick leave (sometimes)
 - Working from home or working at another location

Car Parking

Determining The Value Of Benefits

- The FBT law allows an employer to calculate the value of benefits provided using:
 - a commercial parking station (CPS) comparison method; or
 - an average cost method (ACM); or
 - a market value method
- Employer must elect to use either of the two “concessional” calculation methods – CPS or ACM

Car Parking

Value Of Benefits – Average Cost Method

- The value of each space is the average of the lowest (GST inclusive) fee (by reference to a commercial parking station) on the first and last days of the period (i.e., 1 April 2020 and 31 March 2021 if facility available for entire 2021 FBT year)
- The fees used must be representative of the whole year (anti avoidance provision)

Car Parking

Value Of Benefits – Market Value Method

- Value of each employer-provided space is determined **annually** by suitably qualified valuer
- The valuation before “declaration date” (i.e., date of FBT return lodgement)
- Beneficial if the employer provided parking is of substandard quality (e.g., gravel car park versus under cover parking in commercial parking station)
- Often used where parking is at or near an airport

Car Parking

ATO Focus

The ATO will focus on the validity of valuations provided in relation to car parking fringe benefits. The common errors that attract ATO attention include:

1. Market valuations that are significantly less than the fees charged for parking within a one kilometre radius of the premises on which the car is parked;
2. The use of rates paid where the parking facility is not readily identifiable as a commercial parking station;
3. Rates charged for monthly parking on properties purchased for future development that do not have any car park infrastructure; and
4. Insufficient evidence to support the rates used as the lowest fee charged for all day parking by a commercial parking station.



Exempt Benefits

Exemptions/Concessions

Minor benefits	s 58P
Work related items	s 58X
Employee Activities	
Newspapers and periodicals	s 58H
Membership fees and subscriptions	s 58Y
Taxi Travel	s 58Z
Motor Vehicle running costs	
Car expenses	s 53(1)
Motor Vehicle Expenses	s 53(2)

Motor Vehicle Parking	
Certain car expense payment benefits	s 58G(1)(a)
Motor Vehicles that are not cars	s 58G(1)(b)
Small business car parking	s 58GA
Certain non-profit employers	s 58G(2)
Government public educational institutions	s 58G(3)
Disabled car parking facilities	s 39A(1)(h)
Awards and entitlements	
Long service awards	s 58Q
Safety awards	s 58R

Exemptions/Concessions

Relocation

Employment interviews and selection tests	s 58A
Relocation consultant costs	s 58AA
Relocation transport	s 58F
Removal and storage of household effects	s 58B
Connection and reconnection of certain utilities	s 58D
Leasing of household goods while living away from home	s 58E
Home sale or acquisition benefits	s 58C(1)
Home sale costs	s 58C(2)
Home purchase costs	s 58C(3)
Migrant language training	s 58M(1)

Remote Area

Remote area housing	s 58ZC
Meals for primary production employees	s 58ZD
Remote area housing for primary production employees	former s 58ZA

Exemptions/Concessions

Employee health

Work-related injuries	s 58J(1)
Work-related injury insurance	s 58J(2)
In-house health care facilities	s 58K
Travel to obtain medical treatment	s 58L
Compassionate travel	s 58LA
Work-related medical examinations	s 58M(1)
Work-related medical screening	s 58M(1)
Work-related prevention health care	s 58M(1)
Work-related counselling	s 58M(1)
Migrant language training	s 58M(1)
Work-related associated travel costs	s 58M(2)
Emergency assistance	s c58N

*Care workers etc.

Live-in residential care workers	s 58
Live-in help for elderly and disadvantaged persons	s 58U
Live-in domestic employees	s 58T
Non-live in domestic employees (food and drink)	s 58V
Food or Drink	



Questions