



2022 FBT WORKSHOP HIGHLIGHTS

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Presented by

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AGENDA

- General Update
- What's New for 2022
 - COVID-19
 - Travel Related Benefits
 - Car Parking
 - Undocumented Packaging Agreements
 - Small Business
 - Rebatable Employers
 - Cars
- Review & Lodgement



General Update

The background features a dark teal upper-left section and a lighter teal lower-right section, separated by a diagonal line. Two parallel diagonal lines in the lighter teal section create a sense of depth and movement.

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 2022 FBT year is 4.52% (2023 ??%)
- Motor vehicle (other than car) cents per kilometre rate (TD 2021/4):

FBT Year End	0 – 2500cc	Over 2500cc	Motor Cycles
31 March 2022	56	67	17
31 March 2021	56	67	17



General Update

Rates and Thresholds

- Car parking threshold \$9.25
- 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	\$283
Two Adults	\$425
Three Adults	\$567
One Adult and One Child	\$354
Two Adults and One Child	\$496
Two Adults and Two Children	\$567
Two Adults and Three Children	\$638
Three Adults and One Child	\$638
Three Adults and Two Children	\$709
Four Adults	\$709

- TD 202/3 – FBT year ending 31 March 2022

General Update

Rates and Thresholds

- 2022 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

- 2022 FBT year – certain FBT exemptions and reductions

Type of Benefit	Exemption/Reduction
Long Service Awards Exemption Threshold	\$1,000 + [\$100 x (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 2022 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 2022 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
- in the 2022 FBT year for meals provided:
 - a) by a supplier that was authorised as a meal entertainment provider from 1 April 2021, and
 - b) while restaurants and public venues were required to be closed to dine-in service due to a COVID-19 state public health order

What's New in 2022

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COVID-19

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COVID-19 and FBT developments in 2022

Benefits related to vaccinations, testing and protection against COVID-19

1. Employer provides transport to and from a COVID-19 vaccination clinic

- No FBT implications generally arise on the basis the transport is associated with work-related preventative health care and is exempt from FBT under S.58M.

2. Employer provides a non-cash benefit (e.g. voucher) for getting the COVID-19 vaccination

- FBT applies unless an exemption applies (e.g., the minor benefits exemption under S.58P, this broadly applies to benefits valued at less than \$300, provided infrequently or irregularly).
- If the benefit is an in-house fringe benefit, consider whether reduction is available (e.g., the taxable value of certain such benefits is subject to an aggregate \$1,000 reduction under S.62).



3. Employer provides entry into a raffle as an incentive for getting the COVID-19 vaccination

- No FBT implications arise with respect to the provision of the raffle ticket.
- However, FBT may apply when the winner receives their prize, unless an exemption applies (e.g., the minor benefits exemption under S.58P) or, alternatively, consider if a reduction to the taxable value or the prize is available (e.g., the in-house benefits reduction).
- No FBT implications arise if the prize draw is available to the public (i.e., people who have been vaccinated) and not just employees, as this would not be “in respect or employment”.

COVID-19 and FBT developments in 2022

Benefits related to vaccinations, testing and protection against COVID-19

4. Employer provides COVID-19 test to employee or pays for the test (including polymerase chain reaction test (PCR) or rapid antigen testing)

- Generally FBT exempt under S.58M on the basis this constitutes work-related preventative health care of the employee.
- The testing must be carried out by a legally qualified medical practitioner or nurse or must be available to all employees.
- This may also fall under the minor benefits exemption in S.58P.
- If not exempt, consider if the otherwise deductible rule applies (e.g., this will apply where the employee is travelling on work and the test is required by the destination jurisdiction and to return home).

5. Employer provides emergency health care to support an employee affected by COVID-19

- A limited FBT exemption is available under S.58N if an employer provides emergency health care to an employee affected by COVID-19, if the treatment was provided on, broadly, business premises or on premises that are at, or adjacent to, an employee's worksite.
- Note that the ongoing payment of an employee's medical or hospital costs is likely to attract FBT.

COVID-19 and FBT developments in 2022

Benefits related to vaccinations, testing and protection against COVID-19

6. Employer provides items to protect employee from COVID-19 (e.g., gloves, masks etc.)

- These items are often exempt under S.58N on the basis the benefit constitutes emergency assistance.
- The ATO has advised the exemption will apply in circumstances where the employee:
 - has physical contact, or is in close proximity to, customers or clients; or
 - is involved in cleaning premises.
- If this exemption is not available, the employer should consider whether the minor benefit exemption in S.58P applies.

7. Employer provides emergency food, accommodation and transport

- The ATO has advised that, in the context of COVID-19, the FBT emergency assistance exemption under S.58N applies.
- For examples:
 - expenses incurred in 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 (whether those restrictions be 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;
 - providing temporary accommodation and meals to employees who work on a fly-in fly-out or drive-in drive-out basis who are effectively unable to return to their normal residence COVID-19 domestic and international travel restrictions.

COVID-19 and FBT developments in 2022

Benefits provided to employees to assist them with working from home

8. Employer provides temporary use of office equipment that is expected to be returned to the employer after use (e.g., desk, chair etc.)

- No FBT implications typically arise.
- Either exempt under S.47(3) (which applies for the use of property that is ordinarily located on business premises and which is used in connection with business operations) or under the minor benefits exemption in S.58P.

9. Employer provides office equipment (e.g., desk, chair) in circumstances where the employee becomes the owner of the item (i.e. as a property fringe benefit)

- It is more likely that an FBT liability will arise for an employer if they provide office equipment to an employee in the form of a property benefit or expense payment benefit.
- The FBT exemption contained under S.47(3) only applies where employees are provided with the “use” of the office equipment.
- Employers should consider whether the minor benefit exemption in S.58P applies.
- If not, consider the otherwise deductible rule (noting the otherwise deductible rule does not apply where an employee's 'notional deduction' would have been for depreciation that is spread over more than one year).



COVID-19 and FBT developments in 2022

Benefits provided to employees to assist them with working from home

10. Employer provides portable electronic device (e.g., laptop computer) to employee

- No FBT implications – S.58X exemption would generally apply
- An employer is generally only entitled to provide an employee with one portable electronic device (as a property or expense payment benefit) per FBT year if the later device has substantially identical functions to the earlier device.
- However, this prohibition does not apply if, broadly, the later item is a replacement of the earlier item or if the employer is a small business entity.

11. Employer provides counselling to support an employee who is working from home

- No FBT implications – S.58M exemption would generally apply on the basis the benefit constitutes work related counselling, which could extend to matters including health, safety, fitness, stress, retirement, personal relationships and similar.

COVID-19 and FBT developments in 2022

Benefits provided to employees to assist them with working from home

12. Employer provides health care to support an employee who is working from home

- No FBT implications arise if the benefit amounts to the provision of 'work-related preventative health care' for S.58M purposes.
- 'Work-related preventative health care' means any form of care that:
 - is provided by, or on behalf of, a legally qualified medical practitioner, nurse, dentist or optometrist;
 - has the principal purpose of preventing the employee from suffering from injury or disease that is related to their employment; and
 - is available to all employees who are likely to suffer from similar work-related injury or disease.

COVID-19 and FBT developments in 2022

Car fringe benefits valued under the Operating Cost Method

13. Employer-provided car is returned to employer's business premises during a COVID-19 lockdown

- If the car is returned to the employer's business premises and the employee has no ability, and no entitlement, to use the car for private purposes, then no car benefit is provided during this period and the car is not considered to be "held" during this period.
- Adjustments can be made to the calculation of the taxable value of the car.
- This adjustment is made via removing any car expenses that relate to the period that the car is garaged at the employer's business premises.

14. Employer-provided car is garaged at employee's home during a COVID-19 lockdown

- a car fringe benefit will arise if an employer makes a car available for the private use of an employee (e.g., if the employee garages the car at home, this will generally give rise to a car fringe).
- However, if a car was garaged at, or near, the employee's home and it was not driven at all (or was only driven briefly for the purpose of maintaining the car), due to the impacts of the COVID-19 pandemic, the ATO will accept that the car is not 'held' by the employer for the purposes of providing a car fringe benefit to the employee.
- In these circumstances, adjustments must be made to the calculation of the taxable value of the car (using the Operating Cost formula) via making reductions to the car operating costs during the period the car was stored at an employee's home.
- It is highly recommended for employers who want to take advantage of this concession, that they take odometer readings for any trip taken in the car during the period it is garaged at home, with the purpose of each trip being recorded.

COVID-19 and FBT developments in 2022

Car fringe benefits valued under the Operating Cost Method

Adjustment

(a) Excluding operating costs

- An employer excludes operating costs that relate to the period where the car is not taken to be “held” by the employer to provide a fringe benefit.
- In practical terms, this means that employers can exclude car operating costs that relate to the period the car was stored at an employee's home during the pandemic.

(b) Business use percentage

- An employer is effectively permitted to ignore the use of a car with respect to a period the car was covered by the ATO COVID-19 concession (i.e., broadly, where the car was stored at an employee's home during the pandemic).
- This ensures that an employer is not required to make an adjustment to the business use (or business kilometres) of the car with respect to the lockdown period under S.162F.

(c) Logbook is required

- If employers wish to reduce the taxable value of a car fringe benefit by its business use percentage, the employer must ensure that the logbook requirement is satisfied.
- Where there is an existing logbook, employers can still rely on this logbook for the 2022 FBT year.
- However, when making reasonable estimate of the business kilometres travelled by the car, it is important to remember that any changes in the pattern of business use throughout the year must also be taken into account (including any changes due to the COVID-19 pandemic).
- Alternatively, the employer may choose to complete a new logbook to provide a more accurate reflection of the business use of the car.
- If a new logbook is required in the 2022 FBT year (e.g., it is a logbook year or the Operating Cost Method is being used for the first time), then it must be completed as per normal, in accordance with the usual logbook requirements.
- In this case, whilst driving patterns may have been impacted during the logbook period due to the impacts of COVID-19, adjustments can be made to the reasonable estimate of business kilometres to take into account amongst other things, the variations in the pattern of business use if required.

COVID-19 and FBT developments in 2022

Car fringe benefits valued under the Statutory Formula Method

15. Employer-provided car is returned to employer's business premises during a COVID-19 lockdown

- Where a car is parked at an employers business premises, It will only be considered available for private use where an employee (or their associate) actually uses the car for private purposes, or the car
- is **'taken to be available'** for the employee's private use.
- The ATO has advised that, during a period of COVID-19 restrictions, a car that has been provided to an employee is not taken to be available for an employee's private use (which would mean that no car benefits arise during that period) if all of the following apply:
 - the car is returned to the employer's business premises;
 - the employee cannot gain access to the car; and
 - the employee has relinquished any entitlement to use the car for private purposes.

16. Employer-provided car is garaged at employee's home during a COVID-19 lockdown

- The ATO COVID-19 concession noted above only applies if the car fringe benefits in question are valued under the Operating Cost Method.
- **As such, if the Statutory Formula Method is used, the normal rules apply.**
- This means that an employer cannot reduce the number of days a car was available for private use if the car was garaged at the employee's home, even if the car was not used at all during that period due to COVID-19 lockdown restrictions.

COVID-19 and FBT developments in 2022

Car parking benefits

17. A commercial parking stations within a one-kilometre radius are closed due to COVID-19

- A car parking benefit will not arise during any period in which all commercial parking stations within a one-kilometre radius of where the employee's car is parked have closed, or the parking station is providing free parking, during the COVID-19 lockdowns.
- This is because **no** 'commercial parking station' will be regarded as being located within the one-kilometre radius during this period.

18. No commercial parking stations within a one-kilometre radius charged more than \$9.25 for all-day parking on 1 April 2021

- If, on 1 April 2021, the lowest fee charged for all-day parking by all commercial parking stations located within a one-kilometre radius of the premises on which a car is parked, was less than the applicable car parking threshold (being \$9.25 for the 2022 FBT year), then no car parking benefits arise with respect to that premises for the entire 2022 FBT year.
- This assumes the lowest fee is a "representative fee" as anti-avoidance rules can apply if car parking rates are
- artificially low.
- This is the case where all of the commercial parking stations discounted their all-day parking rate (to at or below \$9.25) due to COVID-19 on and around 1 April 2022.

19. The work car park is closed (e.g., due to a COVID-19 lockdown)

- If, on a particular day, the office is closed due to COVID-19 and, therefore, the work car park is also closed, an employer will not have provided a car parking benefit during each day that the car parking facility is closed.

Travel-Related Benefits

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New for 2022

Employee Travel Rulings

TR 2021/4 and PCG 2021/3 – Issued August 2021

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 and no FBT
- **Living away from home (LAFH)** – employer may be able to pay a LAFHA / provide benefits that are exempt from FBT.
- **Or has the employee relocate** – all costs are private in nature, FBT applies on food/accommodation benefits

New for 2022

Employee Travel Rulings

- Accommodation and food and drink expenses are ordinarily private or domestic in nature and are generally not deductible.
- This includes the costs an employee incurs to maintain their usual residence and of consuming food and drink to go about their daily activities.
- However, where an employee travels and stays away from their usual residence overnight in the course of performing their income-producing activities and incurs accommodation and food and drink expenses, these expenses will generally be deductible
- Conversely, a deduction cannot be claimed for food and drink expenses when the employee does not travel and stay away from their ordinary residence overnight.

New for 2022

TR 2021/4

When is an employee considered to be travelling overnight on work?

1. The expenditure on accommodation and meals must have a sufficient connection to the performance of employment duties.
2. The employee must be required to sleep away from their usual residence overnight in performing their employee duties.
3. The expenditure on accommodation and meals must **not** be attributable to a personal choice made by the employee.
4. The employee must not be considered to be living at a location away from their usual residence.
5. The employee must **not** have relocated to the location to which they have travelled.

New for 2022

TR 2021/4

When is an employee considered to be LAFH?

1. There is a change in the employee's regular place of work.
2. The length of the overall period the employee will be away from their usual residence is considered a relatively long one (rule of thumb PCG 2021/3 - > 21 days).
3. The nature of the accommodation is such that it becomes their usual residence.
4. The employee is, or can be accompanied by family.

New for 2022

Employee Travel Rulings – PCG 2021/3 Rule of Thumb

Travelling Overnight

- Employer provides an allowance or pays/reimburses accommodation and meal expenses of employee.
- Not part of a salary packaging arrangement
- Not a FIFO or DIDO worker
- Employee is away from their normal residence at the same work location for work purposes for a period that is:
 - no more than 21 calendar days at a time continuously; AND
 - no more than 90 calendar days in total in an FBT year
- The employee must return to their normal residence as soon as practicable
- Employer obtains and retains necessary documentation

New for 2022

Examples:

- 1) Employee lives in Brisbane and accepts a job in Canberra. If employee chooses to stay overnight in hotel accommodation near their workplace (Canberra) 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.

Car Parking

New Developments

Car Parking

New for 2022 – Commercial Parking Station

- TR 2021/2 released on 16 June 2021
 - Clarifies meaning of 'commercial parking station'
 - TR 2019/D5 – 'if it is run to make a profit'
 - Difficult to determine practically

Car Parking

New for 2022 – Commercial Parking Station

- TR 2021/2 released on 16 June 2021
 - TR 2021/2 outlines tests, if two or more are displayed:
 - The facility has clear signage visible from the street advertising that paid parking is available
 - The facility has mechanisms to control who can enter and/or exit the parking facility, or park at the facility (e.g., boom gates, or 'pay and display' ticketing machines)
 - The facility charges more than a nominal fee for paid parking (if the fee is at a significantly lower rate than the local market rate then this is indicative that the fee is a nominal fee)
 - Evaluation of objectively observed characteristics

Car Parking

New for 2022 – Business near Hospitals, Sports Stadiums, Etc.

- TR 96/26 – traditionally ATO held view that the following parking facilities do not involve the provision of all-day parking:
 - “...car parking facilities, with a primary purpose other than providing all-day parking, that usually charge penalty rates significantly higher than the rates chargeable for all day parking at commercial all-day parking facilities (such as parking provided for short term shoppers or hotel guests);...”
- Therefore, ATO accepted that a car parking benefit did not arise if the only parking facility within a one-kilometer radius was a shopping centre or similar facility that charged a rate designed to discourage all-day parking. (can also include a hospital or medical centre, where car parking operators had a pricing structure designed to discourage all-day parking)

Car Parking

New for 2022 – Business near Hospitals, Sports Stadiums, Etc.

- TR 2021/2 – ATO has change of interpretation
 - Different approach on which parking facilities constitute a commercial parking station
 - Amended view, a parking facility can still represent a commercial parking station even though the facility charges penalty rates to discourage all-day parking (e.g., parking facilities at shopping centres, hospitals, and hotels)
 - The fact that all-day parking charges are expensive will not, on its own, mean all-day parking is outside the ordinary course of business

Car Parking

New for 2022 – Business near Hospitals, Sports Stadiums, Etc.

- TR 2021/2 – ATO has change of interpretation
 - Employers who provide car parking that is located within 1 km of 'special purpose' car parking facilities (e.g., shopping centres, hospitals, airports), may now incur an FBT liability
- New ATO view in relation to 'special purpose' car parking stations was meant to apply from 1 April 2020 (2021 FBT year)
- Start date for this change would be deferred until 1 April 2022 (2023 FBT year)

Car Parking

New for 2022 – Early Bird Car Parking Rates

- TR 2021/2
 - ATO confirm that the lowest representative fee charged may include fees charged on 'early bird' parking rates or car-pooling arrangements, where a reasonable number of parking spaces are set aside for those purposes.
 - However, that the lowest representative fee charged cannot include:
 - Fees for longer-term parking if users are prevented from entering and exiting the car park on a daily basis during that period, or
 - a fee that is not available to the public on the day that the work car park is provided.

Car Parking

New for 2022 – Airports

- Virgin Australia Case

- Outcome - it is not possible for an airline employer to avoid an FBT liability with respect to the provision of car parking to flight and cabin crew employees on the basis their primary place of employment is the aircraft itself, which is not in the vicinity of the car parking facilities.
- Primary place of employment is the “home base” airport terminal and not the aircraft
- Also relevant to other employers (e.g., trains, ship, ferry, etc.)

Undocumented Packaging Agreements

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Undocumented Packaging Agreements

New for 2022

- A recent AAT case highlighted the importance of documenting such an arrangement in the form of a written agreement
- No strict legal requirement for a salary packaging agreement to be done in writing
- [Hartley v FCT \[2021\]](#)
 - Taxpayer was unsuccessful in arguing that monies paid to him as salary over seven income years were, in fact, payments of fringe benefit amounts

Undocumented Packaging Agreements

New for 2022

- Facts
 - CEO of a PBI (FBT exempt), owned a unit where he lived
 - Had a contract of employment - gross salary of \$110,000 per annum, a fully maintained motor vehicle and a fully maintained mobile phone
 - The employment contract expressly allowed Mr Hartley to take advantage of salary packaging (requirement the parties must agree on the specific portion of salary to be received as benefits)
 - However, there was nothing in the employment contract (or any other agreement) to give effect to this and there was also no mention of any housing-related benefits

Undocumented Packaging Agreements

New for 2022

- Facts

- Nothing to suggest that taxpayer ever 'packaged' his salary as allowed by the employment agreement
- No indication that there was an oral agreement between the parties about salary packaging, or that any portion of salary would be received as benefits
- Taxpayer's gross wages paid to him
- Taxpayer lodging his income tax returns each year characterising the amounts received as 'salary or wages'

Undocumented Packaging Agreements

New for 2022

- Facts
 - Taxpayer objected to the notices of assessment for the seven income years
 - On the basis the mortgage repayments made during these years should be treated as remote housing benefits, whilst the interest on the mortgage, body corporate fees, rates, electricity and water rates should be treated as an expense payment benefit that was eligible for the remote area housing reduction
 - Commissioner allowed the objection to be treated as being made within time (even though it was lodged out of time). That said, the objection was disallowed on the same day

Undocumented Packaging Agreements

New for 2022

- Key Issues

- Whether the payments made to the Taxpayer by his employer in the relevant income years were:
 - Payments of salary (in which case, would be assessable and form part of his taxable income for the years in question); or
 - Payments of a remote housing benefit or expense payment benefit (which may be exempt, or partially exempt, from income tax).

Undocumented Packaging Agreements

New for 2022

- Taxpayer argued:
 - Employer was a PBI and located in a remote area and therefore eligible for the remote area housing benefit
 - employment contract gave him “access to all taxable concessions”

- ATO argued:
 - notices of assessment were issued on the basis the payments made to the Taxpayer were always payments of salary
 - nothing had been done to activate this packaging facility, nor were there any agreements between the parties on the provision of fringe benefits
 - Also, none of the amounts claimed fell within the specific requirements of the FBT Act

Undocumented Packaging Agreements

New for 2022

- Importance of written salary packaging agreement
 - Technically no legal requirement that obliges an employer and an employee to enter into a written salary packaging agreement.
 - Possible that an effective salary packaging agreement can be a verbal agreement that is entered into between the employer and the employee. (TR 2001/10)
 - Written salary packaging agreements are strongly recommended.

Small Business

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Small Business Exemptions Extended

New for 2022

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

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.



Rebatable Employers

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Rebatable 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
 - Caretaker accommodation MT 2025 (20%)
- Exempt Vehicles
 - Dual Cab / Utes grounds person
- Entertainment
 - \$300 minor benefit has limited application
 - GST

Rebatable 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

Cars

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Cars

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 (56 cents in 2021)
- Over 2500 cc 67 cents (67 cents in 2021)
- Motorcycle 17 cents (17 cents in 2021)

Review & Lodgement

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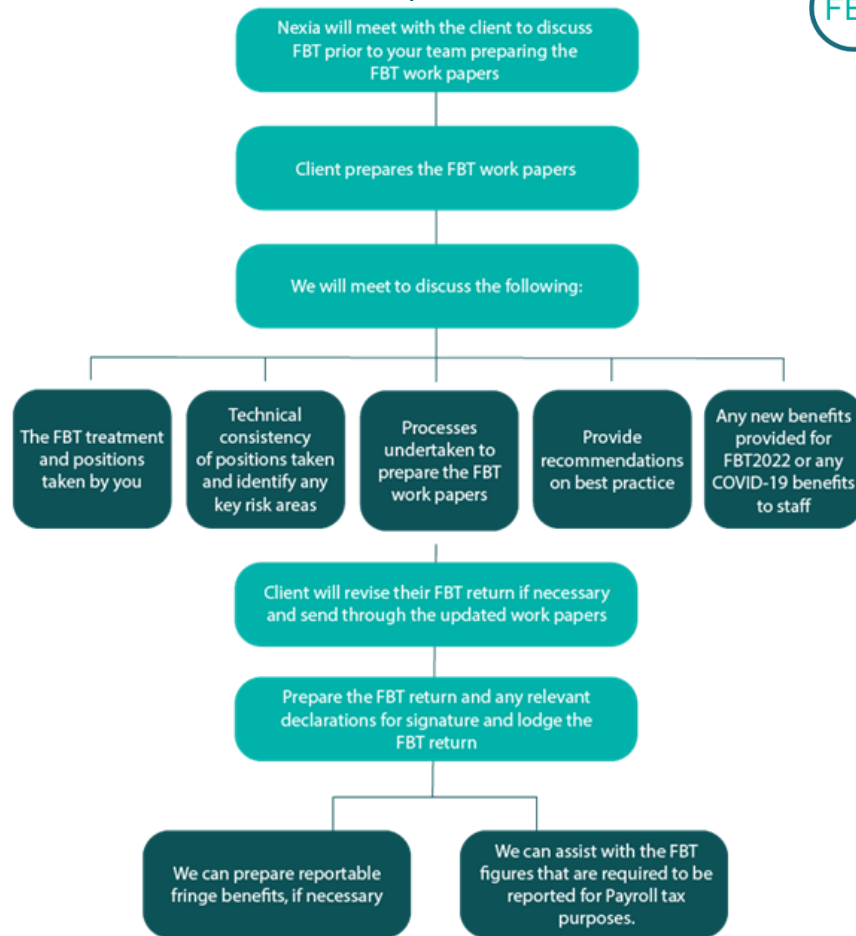
Nexia can help

- Experts in FBT and employment taxes
- Big-four-competency with mid-market care and personal engagement
- We can provide a review to identify risks:
 - Discuss the FBT treatment and positions taken by you
 - Discuss any new benefits for 2022 and if any COVID-19 benefits have been provided by you
 - Provide technical consistency of positions taken and identify any key risk areas
 - Understand the process undertaken to prepare the FBT work papers to assist with Corporate Governance
 - Provide recommendations on best practice
- Contact your Nexia Advisor or [Katie Lin](#).

FBT lodgements due soon:

- 23 May if lodging yourself, or
- 27 June if lodged through your tax agent

Our review process





Thank you.

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