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Australian Government
Australian Taxation Office

Fringe benefits tax: a guide for employers

A comprehensive guide to fringe benefits tax (FBT) for employers and tax professionals.

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ABOUT THIS GUIDE

Fringe benefits tax: a guide for employers is the Tax Office's most comprehensive guide to fringe benefits tax (FBT). It provides employers and tax practitioners with detailed information about how to comply with FBT obligations. The guide also contains information about non-profit organisations and FBT.

This guide explains:

- how FBT operates
- how to calculate your FBT liability
- record keeping requirements
- reportable fringe benefits
- the concessions available to non-profit organisations
- how to identify and value each type of fringe benefit, and
- the various concessions and exemptions available.

It also provides references to tax rulings and determinations for further information.

This guide is divided into two areas:

- **chapters 1 to 5** which deal with the operation of FBT and your responsibilities as an employer, and
- **chapters 6 to 21** which deal with how to identify and value each type of fringe benefit and the various concessions available.

> *You may not need to read the whole guide.* For example, if you provide only car fringe benefits, you may need to read only chapters 1 to 5 and then chapter 7, which deals with car fringe benefits.

If after reading this book you have any questions about FBT, you should contact your tax adviser or phone the Tax Office on **13 28 66**.

You can also access the information contained in this guide, as well as tax rulings and determinations, on our website at **www.ato.gov.au**

THE LEGISLATION

The FBT legislation was enacted in a package of four Acts that were passed by Parliament in 1986.

- The *Fringe Benefits Tax Assessment Act 1986* establishes the rules for assessing and collecting the tax. Most of the content of this book relates to the legislation contained in this Act. The *Fringe Benefits Tax Assessment Act 1986* is quite separate from the Income Tax Assessment Acts.
- The *Fringe Benefits Tax Act 1986* imposes tax on the taxable value of fringe benefits. Any change to the rate of tax is affected by amending this Act.
- The *Fringe Benefits Tax (Application to the Commonwealth) Act 1986* ensures that the FBT law applies also to Australian Government authorities and departments.
- The *Fringe Benefits Tax (Miscellaneous Provisions) Act 1986* amended the *Income Tax Assessment Act 1936* so that employees would not be liable for income tax on any fringe benefits received.

CONTENTS

WHAT IS FRINGE BENEFITS TAX? 1

This chapter explains what a fringe benefit is and outlines the different types of fringe benefits. It provides information on how you can reduce your fringe benefits tax liability, the income tax and GST consequences of providing fringe benefits, and salary sacrifice arrangements.

1.1 WHAT IS A FRINGE BENEFIT?

A fringe benefit is a 'payment' to an employee, but in a different form to salary or wages.

According to the fringe benefits tax (FBT) legislation, a fringe benefit is a benefit provided in respect of employment. This effectively means a benefit provided to somebody **because they are an employee**. The 'employee' may even be a former or future employee.

An employee is a person who is entitled, or has been entitled, to receive, salary or wages. Benefits provided in respect of someone who has died are not fringe benefits as a deceased person does not meet the definition of 'employee' in the FBT legislation.

The terms **benefit** and **fringe benefit** have broad meanings for FBT purposes. Benefits include rights, privileges or services. For example, a fringe benefit may be provided when an employer:

- allows an employee to use a work car for private purposes
- gives an employee a cheap loan
- pays an employee's gym membership
- provides entertainment by way of free tickets to concerts
- reimburses an expense incurred by an employee, such as school fees, and
- gives benefits under a salary sacrifice arrangement with an employee.

> ! If you conduct your business through a company or trust, you may be an employee of the company or a trustee.

As a guide to whether a benefit is provided in respect of employment, ask yourself whether you would have provided the benefit if the recipient had not been an employee.

> › When we refer to 'you' in this guide, we are referring to you as an employer.

EXAMPLE: Benefit provided in respect of employment

David is an employee and is employed under the provisions of a particular industrial award. The award requires David's employer to reimburse David for his home telephone rental costs. David's employer reimburses him, but only because of the award provisions.

If David was not an employee, the reimbursement would not have been made. The reimbursement is therefore a benefit provided in respect of employment and, consequently, it is a fringe benefit.

A benefit that is not provided in respect of employment is not a fringe benefit.

EXAMPLE: Benefit not provided in respect of employment

An adult daughter, Sarah, is employed in the family business. Her parents give her a birthday present. The gift is given because of the family relationship and would have been given even if Sarah had not been employed in the family business.

Although the recipient of the gift is an employee, the gift was not provided in respect of employment and is therefore not a fringe benefit.

> ! To simplify the explanations in this book, we generally discuss cases where the fringe benefit is provided directly by an employer to an employee. However, a fringe benefit may be provided by an associate of the employer or under an arrangement between a third party and the employer. It may also be provided to an associate of the employee (for example, a relative).

1.2 WHO PAYS THE TAX?

FBT is paid by you, as the employer.

This is the case regardless of whether you actually provide the benefit or it is provided by an associate or under an arrangement you have with a third party.

As an employer, you pay FBT irrespective of whether you are a sole trader, partnership, trustee, corporation, unincorporated association, government or government authority.

This tax is payable whether or not you are liable to pay other taxes such as income tax.

If you are an international organisation and provide benefits to employees in Australia, these benefits are subject to FBT in Australia (but note that Australia has comprehensive double

tax agreements with the United Kingdom and New Zealand which currently include FBT).

You may claim an income tax deduction for the cost of providing fringe benefits and the amount of FBT you pay.

1.3 ARE YOU PROVIDING FRINGE BENEFITS?

The following checklist will help you work out if you are already providing a fringe benefit to your employees. If any of the following apply, you may have an FBT liability.

- ☐ Do you make car or other vehicles owned or leased by the business available to employees for private use?
- ☐ Do you provide loans at reduced interest rates to employees?
- ☐ Have you released an employee from an owed debt?
- ☐ Have you paid for, or reimbursed, a non-business expense incurred by an employee?
- ☐ Do you provide a house or unit of accommodation to your employees?
- ☐ Do you provide employees with living-away-from-home allowances?
- ☐ Do you provide entertainment by the way of food, drink or recreation to your employees?
- ☐ Do any of your employees have a salary package arrangement in place?
- ☐ Have you provided your employees with goods at a lower price than they are normally sold to the public?

1.4 TYPES OF FRINGE BENEFITS

So that specific valuation rules can be used, fringe benefits have been categorised into 13 different types. These benefits are dealt with separately in their respective chapters in this guide.

To help you decide which chapters you may need to read, we briefly describe each type of fringe benefit here.

> ❗ In the following descriptions, it is presumed that the benefit is provided in respect of employment and is therefore a fringe benefit.

Car fringe benefit

A car fringe benefit commonly arises where you make a car you own or lease available for the private use of an employee. A car is taken to be made available for private use by an employee on any day the car:

- is actually used for private purposes by the employee or associate
- is not at your premises, and the employee is allowed to use it for private purposes, or
- is garaged at their home, regardless of whether they have permission to use it privately.

As a general rule, travel to and from work is private use of a vehicle.

Private use of a motor vehicle that is not a car may give rise to a residual fringe benefit.

Debt waiver fringe benefit

A debt waiver fringe benefit arises where you waive or forgive an employee's debt. For example, if you sold goods to an employee and later told them not to bother about paying the amount invoiced for the goods, you have provided a debt waiver fringe benefit.

A debt owed by an employee that you write off as a genuine bad debt is not a debt waiver fringe benefit.

Loan fringe benefit

A loan fringe benefit arises where you provide a loan to an employee and charge a low rate of interest (or no interest) during the FBT year. A low rate of interest is one that is less than the statutory rate of interest. This rate is published by the Tax Office in a tax determination each year, usually in April.

The use of the term 'loan' is quite broad. For example, if an employee owes you a debt but you do not enforce payment after the debt becomes due, the unpaid amount is treated as a loan to the employee. Such a loan commences immediately after the due date, at the rate of interest (if any) that accrues on the unpaid amount.

Expense payment fringe benefit

An expense payment fringe benefit may arise where you:

- reimburse an employee for expenses they incur, or
- pay a third party for expenses incurred by an employee.

In either case, the expenses may be business or private expenses, or a combination of both, but they *must be incurred by the employee*.

Housing fringe benefit

If you provide an employee with the right to use a unit of accommodation and that unit of accommodation is the usual place of residence of the employee, the right to use the unit of accommodation is a housing fringe benefit.

A unit of accommodation includes:

- a house, flat or home unit
- accommodation in a house, flat or home unit
- accommodation in a hotel, motel, guesthouse, bunkhouse or other living quarters
- a caravan or mobile home, or
- accommodation on a ship or other floating structure.

The employee doesn't have to have exclusive use of the accommodation.

Living away from home allowance fringe benefit

If you pay an employee a living away from home allowance you are providing a living away from home allowance fringe benefit.

For FBT purposes, a living away from home allowance is an allowance you pay to an employee. It is intended to compensate for additional expenses incurred and any disadvantages suffered because the employee has to live away from home to perform employment-related duties. Additional expenses do not include expenses the employee could claim as an income tax deduction.

Airline transport fringe benefit

An airline transport fringe benefit arises where employees of airlines or travel agents are provided with free or discounted air travel on a stand-by basis.

Board fringe benefit

A board fringe benefit may arise if you provide an employee with accommodation and there is an entitlement to at least two meals a day, the meals may be a board fringe benefit.

Examples include:

- meals provided in a dining facility located on a remote construction site, oil rig or ship, and
- meals provided to a live-in housekeeper or to resident teachers in a boarding school.

Entertainment

The provision of entertainment means the provision of entertainment by way of food, drink or recreation. There is no category of fringe benefit called an entertainment fringe benefit, but the following types of fringe benefits may arise from providing entertainment:

- an expense payment fringe benefit, for example the cost of theatre tickets purchased by an employee and reimbursed by the employer
- a property fringe benefit, for example, providing food and drink
- a residual fringe benefit, for example, providing accommodation or transport in connection with such entertainment, or
- a tax-exempt body entertainment fringe benefit (only employers who are exempt from income tax).

Tax-exempt body entertainment fringe benefit

A tax-exempt body entertainment fringe benefit may arise where you incur entertainment expenses and you are wholly or partially exempt from income tax, or do not derive assessable income from the activities related to the entertainment.

Only entertainment expenditure that is non-deductible for income tax purposes can give rise to a tax-exempt body entertainment fringe benefit.

Car parking fringe benefit

Broadly, a car parking fringe benefit may arise where you provide car parking for an employee at or near their place of employment, and

- there is a commercial parking station available for all-day parking within a one-kilometre radius of the premises on which the car is parked, and
- that commercial car parking station charges a fee for all-day parking that is more than the car parking threshold.

The car parking threshold is indexed in line with the consumer price index. It is announced each year in a tax determination, usually published in April.

Property fringe benefit

A property fringe benefit arises where you provide an employee with free or discounted property.

Residual fringe benefit

Any fringe benefit that is not subject to any of the above categories is called a residual fringe benefit. Essentially, these are the fringe benefits that remain or are left over because they are not one of the more specific categories of fringe benefit.

A residual fringe benefit could include providing services (such as travel, or the performance of professional or manual work) or the use of property.

1.5 EXEMPTIONS FROM FBT

A number of benefits are exempt from FBT. These include certain benefits provided by religious institutions and benefits provided by international organisations and public benevolent institutions. In addition, there are some specific types of benefits that are exempt from FBT. Chapter 20 contains details of these exemptions.

There are also a range of concessions available. Some of these concessions reduce the taxable value of a fringe benefit to nil, whereas others provide only a partial reduction. Chapter 19 contains details of the concessions. The concessions relevant to each type of benefit are listed in the respective chapters of this guide.

1.6 REDUCING YOUR FBT LIABILITY

There are various ways you can reduce your FBT liability – sometimes to nil. You can reduce an FBT liability in the following ways.

Replace fringe benefits with cash salary

If you replace an employee's fringe benefits with the cash equivalent in the form of salary or wages, the employee pays income tax on the salary or wages, rather than you paying FBT.

Provide benefits that are exempt from FBT

If you provide only exempt benefits, or benefits that are not fringe benefits, you will not have an FBT liability.

Provide tax deductible benefits

You may not have an FBT liability if you pay for or reimburse an expense an employee would otherwise have been able to claim as an income tax deduction.

Use employee contributions

In most cases, you can reduce your FBT liability by obtaining a payment from an employee towards the cost of providing a fringe benefit. The payment is commonly called an employee contribution.

Generally, the payment is a cash payment made to you or the person who provided the benefit. However, an employee can also make an employee contribution towards a car fringe benefit by paying a third party for some of the operating costs (such as fuel) that you do not reimburse. Contribution of services as an employee is not considered an employee contribution for FBT purposes.

Important points to note about employee contributions are:

- employee contributions must be paid out of the employee's after-tax income
- an employee contribution towards a particular fringe benefit cannot be used to reduce the taxable value of any other fringe benefit
- in certain circumstances, journal entries in your accounts can be an employee contribution
- an employee contribution paid directly to you (including those received by journal entry) is included in your assessable income
- an employee contribution paid to a third party who is not an associate (for example, the servicing of a car) is not assessable to you, and
- an employee contribution (other than a contribution of services as an employee) may be treated as consideration for a taxable supply for GST purposes. Accordingly, you would have to pay GST on the supply. However, there is no GST payable on an employee's contribution where:
  - the benefit is GST-free or input taxed
  - the GST is paid to a third party (for example, to purchase fuel)
  - you (or another provider of the benefit) are not registered or required to be registered for GST, or
  - the benefit is not a taxable supply.

When calculating the taxable value of the benefit, the full amount of the contribution (GST-inclusive amount) is used to reduce the taxable value of the benefit.

1.7 WHAT IS NOT SUBJECT TO FBT

Not all benefits provided in respect of employment are fringe benefits. The FBT legislation excludes certain benefits from being fringe benefits, and these are outlined below.

Salary or wages

Payments of salary or wages are not fringe benefits. The term 'salary or wages' means a payment from which an amount must be withheld.

Employee share acquisition schemes

Benefits arising to employees from the acquisition of shares, or rights to acquire shares, are not fringe benefits if the share acquisition scheme conforms to the necessary income tax requirements. The exemption extends to relatives of employees.

Superannuation

The following are not fringe benefits:

- monetary contributions you make to a superannuation fund for an employee, provided you have reasonable grounds for believing the fund is a complying fund. To have reasonable grounds for believing a fund is a complying superannuation fund, you must obtain an appropriate written statement from the fund trustee

- contributions you make to a non-resident superannuation fund for a person who is an exempt visitor to Australia in the year of income in which the payments are made, and
- payments you make to a retirement savings account held by an employee.

However, superannuation contributions you make for an associate of an employee are subject to FBT.

Eligible termination payments

Eligible termination payments are not fringe benefits. Broadly, eligible termination payments are payments made in consequence of terminating the employment of an employee (for example, a lump sum paid upon retirement).

> Property you transfer to an employee in relation to terminating their employment is an eligible termination payment (for example, a company car you give or sell to an employee on termination).

Payments of a capital nature

Payments of a capital nature for a legally enforceable contract in restraint of trade, or for personal injury to a person, are not fringe benefits.

Dividends

Payments of amounts deemed to be dividends are not fringe benefits.

Payments to associates

Certain payments made by partnerships and sole traders to relatives and other associates that are deemed not to be assessable income are not fringe benefits.

1.8 REPORTABLE FRINGE BENEFITS

If an employee receives certain fringe benefits with a total taxable value of more than $1,000 in an FBT year (1 April to 31 March), you must report the grossed-up taxable value of the benefits on their payment summary for the corresponding income year (1 July to 30 June). This is called their **reportable fringe benefits amount**.

Benefits must be allocated to the relevant employee, including any fringe benefits you provide to associates of the employee. If employees share a benefit, you must allocate the respective share of the benefit to each of the employees. The total value of all benefits provided to a particular employee in an FBT year is known as their **individual fringe benefits amount**.

> The Government has announced that from 1 April 2007, the fringe benefits reporting exclusion threshold will increase from $1,000 to $2,000.

> Chapter 5 contains more information about allocating benefits to employees.

1.9 WHAT ARE THE GST CONSEQUENCES OF PROVIDING FRINGE BENEFITS?

GST (input tax) credits

Acquisitions made to provide fringe benefits have a GST creditable purpose, and you are entitled to GST credits for these acquisitions if you are registered or required to be registered for GST. However, there are some exceptions to this general rule, such as where the acquisition relates to a GST-free or input taxed supply.

If you are entitled to a GST credit in providing a fringe benefit, you use the higher gross-up rate (called type 1) to calculate the FBT payable. Chapter 2 contains more details about calculating FBT payable.

GST on employee contributions

Where an employee or associate receives a fringe benefit or exempt benefit, and makes a contribution or payment (other than a contribution of services as an employee) to you for supplying the benefit, you have to pay GST on that supply if you are registered or required to be registered for GST purposes.

The contribution or payment (excluding recipient's rent, see chapter 10) is the price of that supply, therefore one-eleventh of that amount is the GST payable by you.

Where an employee makes a contribution by paying a third party, for example, they purchase fuel or oil in respect of a car fringe benefit, you do not have to pay any GST. In such cases, GST has already been paid when the third party made the sale to the employee or associate.

Contributions related to GST-free or input taxed supplies are not taxable supplies and therefore no GST is payable on any contribution towards these supplies.

Also, if you are not registered or required to be registered for GST, you would not pay GST on an employee contribution.

EXAMPLE

During the FBT year ending 31 March 2007, a hardware retailer provides their employee, Derek, with a car benefit, the FBT value of which is $7,000. Derek pays $5,500 to his employer on 15 April 2006, and $1,000 in petrol costs and $500 car insurance during the year ending 31 March 2007. Because the total employee contribution of $7,000 equals the FBT value of $7,000, the FBT taxable value of the benefit is zero.

As Derek has contributed $5,500 directly to his employer, the employer is liable for GST of one-eleventh of $5,500, that is, $500. Derek's payments of $1,500 to third parties are not a contribution for the supply of the benefit for GST purposes and his employer does not have to remit one-eleventh of this contribution.

GST and the value of fringe benefits

When calculating the taxable value of a benefit, the value of the fringe benefit is the GST-inclusive value where applicable.

Where the **otherwise deductible rule** applies, you reduce the taxable value of a fringe benefit by the hypothetical income tax deduction the employee would have been entitled to if they had incurred the expense. In these situations, you take into account the GST-inclusive value where applicable.

1.10 WHAT ARE THE INCOME TAX CONSEQUENCES OF PROVIDING FRINGE BENEFITS?

The cost you incur in providing a fringe benefit is an allowable income tax deduction and you have to include any employee contributions paid directly to you (including those received by journal entry) in your assessable income. Employee contributions paid to a third party who is not an associate (for example, for fuel) are not assessable to you.

The amount of FBT you have paid is generally an allowable income tax deduction. If an employee reimburses you for the FBT paid, the reimbursement is included in your assessable income. However, it is not an allowable deduction for the employee.

A fringe benefit is exempt income in the hands of the recipient.

Where a GST credit is available in respect of a fringe benefit, the income tax deduction is the GST-exclusive value of the fringe benefit. If no GST credit is available, the income tax deduction is the full amount paid or incurred on the relevant acquisition, including GST where applicable.

Where an employee contributes towards a GST taxable sale, you include the GST-exclusive value of the contribution in your assessable income.

1.11 SALARY SACRIFICE

What is a salary sacrifice arrangement?

A salary sacrifice arrangement is an arrangement between an employer and an employee, whereby the employee agrees to forgo part of their future entitlement to salary or wages in return for the employer providing them with benefits of a similar value. A salary sacrifice arrangement is commonly referred to as salary packaging or total remuneration packaging.

Under an effective arrangement:

- the employee pays income tax on the reduced salary or wages
- you, as the employer may be liable to pay FBT on the fringe benefits provided, and
- salary sacrificed superannuation contributions are classified as employer superannuation contributions (not employee contributions) and are taxed in the superannuation fund under tax laws dealing specifically with this subject.

What are the requirements for an effective salary sacrifice arrangement?

It must be an arrangement before services

An effective salary sacrifice arrangement is an arrangement between an employer and an employee detailing the amount of salary or wage income to be sacrificed. The arrangement should be entered into before the work is performed. If the arrangement is put into place after the work has been performed the salary sacrifice arrangement may be ineffective.

It is advisable that you and your employee clearly state and agree on all the terms of any salary sacrifice arrangement. Employees who enter into an undocumented salary sacrifice arrangement may encounter difficulty establishing facts at a later date.

Subject to the terms of any contract of employment or industrial agreement, employees can renegotiate a salary sacrifice arrangement at any time. Where you have a renewable contract with an employee, the employee can renegotiate amounts of salary or wages to be sacrificed before the start of each renewal.

There should be an agreement between the employer and employee

The relationship between you and an employee starts when you enter into a contract of employment with each other before personal services are performed. The contract is usually in writing, but may be a verbal one.

The contract of employment includes details of an employee's remuneration, including any salary sacrifice arrangement. This contract can be varied by agreement between you and the employee.

There should be no access to the sacrificed salary

The employee should not have any access to the salary being sacrificed for the period of the arrangement. Any benefit entitlements that are provided by way of cash payments of benefits may form part of normal salary or wages. This includes deposits you make to an employee's bank savings account. If a fringe benefit has not been provided and is cashed out at the end of a salary sacrifice arrangement accounting period, the amount cashed out is salary and is taxed as normal income.

What types of benefits can be included in a salary sacrifice arrangement?

All non-cash benefits can be sacrificed. The important thing is that these benefits form part of the employee's remuneration, replacing what otherwise could have been paid as salary. The types of benefits employers generally provided in salary sacrifice arrangements include employer superannuation, fringe benefits and exempt benefits.

Superannuation

Superannuation contributions you make under a salary sacrifice arrangement to a complying superannuation fund for the benefit of an employee are not fringe benefits. Where such contributions are paid for the benefit of an associate, such as a spouse, they are considered to be a fringe benefit. Similarly, where such contributions are paid to a non-complying superannuation fund they will be considered to be a fringe benefit.

Fringe benefits

Fringe benefits provided in salary sacrifice arrangements are often car fringe benefits and expense payment fringe benefits, such as payment of an employee's loan repayments, school fees, child care costs and home telephone costs.

Exempt benefits

A specific provision of the FBT legislation states that certain benefits are exempt from FBT. For example, expense payment, property or residual benefits arising from the following items are commonly provided in salary sacrifice arrangements.

- A notebook computer, laptop computer or similar portable computer. The exemption for portable computers is limited to the purchase or reimbursement of one computer per employee per year.
- A mobile phone or car phone. A benefit arising for a mobile phone or car phone attracts the exemption only if the phone is primarily for use in the employee's employment.

What are the implications of an effective salary sacrifice arrangement for employers?

FBT

A salary sacrifice arrangement giving employees a non-cash benefit may result in you having FBT obligations for those non-cash benefits.

Assessable income

The reduced salary amount specified in a salary sacrifice arrangement becomes the employee's assessable income.

GST

If you are registered for GST, you may be able to claim a GST credit for GST paid in providing the benefit. For fringe benefits which are subject to GST and where you hold a valid GST invoice, you are entitled to claim the GST credit when submitting your activity statement.

Employee contributions

The taxable value of a benefit may be reduced through the payment of employee contributions. The amount sacrificed does not count as an employee contribution when determining the taxable value of any fringe benefits the employee receives. Employee contributions must be paid out of the employee's after-tax income.

PAYG withholding and payment summaries

PAYG tax withheld should be based on gross salary and wages paid and should not include salary-sacrificed amounts. The employee's PAYG payment summary should show the gross amounts of all salary and wages (excluding salary-sacrificed amounts) and the relevant total amount of PAYG tax withheld for the year.

> Where an employee's individual fringe benefits amount is more than $1,000 (that is, the equivalent grossed-up taxable value of $1,869), you must report the grossed-up value on their payment summary.

What are the implications of an effective salary sacrifice arrangement for employees?

Assessable income

The employee pays income tax on the reduced salary but will receive the reduced salary plus non-cash benefits. Sometimes employees make employee contributions out of their after-tax income towards the cost of providing the benefit.

FBT

You are liable for any FBT payable on the benefits received. The FBT payable is determined at the highest marginal income tax rate, including the Medicare levy (that is, 46.5 cents in the dollar). However, you may ask the employee to contribute towards the FBT payable.

Reportable fringe benefits

If the total taxable value of certain fringe benefits received by an employee in an FBT year (1 April to 31 March) exceeds $1,000, you must report the grossed-up taxable value of those benefits on their payment summary for the corresponding income year (1 July to 30 June). As employees do not pay income tax on fringe benefits, the grossed-up taxable value of a benefit reflects the gross salary that would have to be earned to purchase the benefit from after-tax dollars. This is calculated at the highest marginal tax rate, including the Medicare levy.

The value of fringe benefits reported on a payment summary is known as the **reportable fringe benefits amount**. The sum of an employee's reportable fringe benefits amounts from every employer for a year is called the **reportable fringe benefits total**.

The reportable fringe benefits total is not included in the employee's assessable (or taxable) income and does not affect the amount of basic Medicare levy payable. The total will, however, be used to calculate a number of income tests relating to government benefits and obligations.

EXAMPLE: Salary Sacrifice

Liz works as a sales manager and receives an annual salary of $65,000. She wants to salary package a $35,000 car under a novated lease agreement. It is expected that she will travel between 25,000 kms and 40,000 kms for the 2006–07 FBT income year.

The following example shows the different outcomes of salary versus salary packaging and employee contributions versus no employee contributions and the effect of a reportable fringe benefits amount on an employee's payment summary.

Car expenses and running costs		FBT calculations (using the statutory formula method)	Without employee contributions	With employee contributions
Lease payments	$ 8,000	Base value of car	$35,000	$35,000
Fuel and oil	$ 1,100	× applicable statutory % for kilometres travelled	11%	11%
Repairs	$ 1,000	Taxable value of car benefit	$ 3,850	$ 3,850
Insurance	$ 800	Less employee contributions	NIL	$ 3,850
Registration (GST free)	$ 600	× Gross-up rate	2.0647	2.0647
Total car expenses	$11,500	Grossed-up taxable value	$ 7,949	NIL
Less: GST credits (one-eleventh of $11,500 – registration of $600)	$ 991	× FBT rate	46.5%	46.5%
GST-exclusive car expenses total	**$10,509**	**FBT payable by employer**	**$ 3,696**	**NIL**

To calculate the salary sacrifice amount and the cost to the employer:			
Add	the GST-exclusive value of car expenses paid by the employer	$10,509	$10,509
Add	any FBT payable	$ 3,696	NIL
Add	any GST payable on employee contributions	NIL	$ 350
Less	any employee contributions (GST-inclusive) to employer *(paid for out of employee's income after tax has been deducted)*	NIL	$ 3,850
Salary sacrifice amount		**$14,205**	**$ 7,009**

Using the above figures, the following table illustrates how salary sacrificing and employee contributions work by comparing the net disposable income for each scenario.

EXAMPLE: Salary Sacrifice (continued)

	Salary only (no packaging)	Salary + car (*without* employee contributions)	Salary + car (*with* employee contributions)
Annual remuneration	$65,000	$65,000	$65,000
Less salary sacrifice amount	NIL	$14,205	$ 7,009
Taxable income	$65,000	$50,795	$57,991
Less tax	$14,850	$10,588.50	$12,747.30
Less 1.5% Medicare	$ 975	$ 761.92	$ 869.86
Income after tax and SSA	$49,175	$39,444.58	$44,373.84
Employee contribution *(paid for out of employee's income after tax has been deducted)*			$ 3,850
Less car expenses	**$11,500**	**NIL**	**NIL**
Net disposable income	**$37,675**	**$39,444.58**	**$40,523.84**
Reportable fringe benefits amount for employee payment summary	NIL	$ 7,196 *(car fringe benefit of $3,850 × 1.8692)*	NIL

Note: This example is intended to be a guide only to illustrate how salary packaging can work. It is not intended to be advice, whether legal or professional. You should not act solely on the basis of the information in this example as it has been generalised and the tax laws apply differently to different people in different circumstances. Specific advice should always be obtained from a tax professional or financial advisor.

Chapter 5 contains more details about reportable fringe benefits.

MORE INFORMATION

- Miscellaneous Tax Ruling MT 2050 – Fringe benefits tax: payment of a recipients contribution by journal entry.
- Taxation Ruling TR 2001/10 and Addendum – Income tax: fringe benefits tax and superannuation guarantee: salary sacrifice arrangements.
- *Salary sacrifice arrangements for employees* (NAT 7424).

2 CALCULATING FBT

This chapter explains how to calculate your FBT payable if your organisation is **not** a non-profit organisation. Chapter 6 contains an explanation of how to calculate your FBT if you are a non-profit organisation.

> ! Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

The Tax Office does not usually notify you (the employer) of how much FBT you have to pay. Rather, you self-assess your FBT payable.

2.1 FBT YEAR

The FBT year is the 12 months beginning 1 April and ending 31 March.

2.2 RATE OF TAX

The rate of FBT may vary from year to year but the Tax Office will advise you of the rate each year. Currently, the FBT rate is 46.5%.

Prior to the FBT year commencing 1 April 2006, the FBT rate was 48.5%.

2.3 HOW IS THE AMOUNT OF TAX DETERMINED?

Where you provide taxable fringe benefits to employees, there are some distinct steps involved in calculating your FBT liability. With the introduction of the GST, there are two separate gross-up rates used to calculate fringe benefits taxable amounts – a higher (type 1) and a lower (type 2) gross-up rate.

The higher gross-up rate (see 2.11) is used where you (or other benefit provider) are entitled to a GST credit for GST paid on benefits provided to an employee. These benefits are known as GST-creditable benefits (see 2.5 for a full definition of a GST-creditable benefit).

The lower gross-up rate is used where there is no entitlement to a GST credit (see 2.11).

> ! You use the lower gross-up rate to calculate an employee's reportable fringe benefits amount (see 5.4).

2.4 GST AND FRINGE BENEFITS

A GST of 10% applies on most goods and services supplied in Australia and on goods imported into Australia. GST affects the calculation of your FBT liability.

As outlined in 2.3, you use a higher gross-up rate to calculate your FBT liability where you (or other providers) are entitled to GST credits for GST paid on goods or services acquired to provide the benefits. Where there is no entitlement to a GST credit, the lower gross-up rate is used.

If an employee makes a contribution or payment towards the cost of the fringe benefit provided, this may be treated as consideration for a taxable sale for GST purposes.

2.5 GST-CREDITABLE BENEFITS

A GST-creditable benefit arises where the person who provided the fringe benefit (or another member of the same GST group) is entitled to a GST credit for providing the benefit.

A benefit provided in respect of an employee is also a GST-creditable benefit if:

- the benefit consists of:
  - a thing (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act))
  - an interest in such a thing
  - a right over such a thing
  - a personal right to call for or be granted any interest in or right over such a thing
  - a licence to use such a thing, or
  - any other contractual right exercisable over or in relation to such a thing, and
- the thing was acquired or imported and the person who provided the fringe benefit (or another member of the same GST group) is entitled to a GST credit because of the acquisition or importation.

EXAMPLE: Travel

An employee travels interstate on business for his employer. His wife accompanies him. They stay an extra few days to visit relatives. Their stay at the motel is a taxable sale and the employee receives a tax invoice when he pays the account. His employer reimburses him on his return by paying him the full cost of their accommodation expenses. The employer is entitled to a GST credit equal to the amount of GST included in the price of the accommodation.

EXAMPLE: Provision of benefits

An employer provides an employee with a home entertainment system for her private use. The employer received a tax invoice when he purchased the home entertainment system. The employer is entitled to a GST credit equal to the amount of GST included in the price of the entertainment system.

2.6 GST-FREE AND INPUT TAXED BENEFITS

Any fringe benefits that are wholly GST-free or input taxed, or for which you (or another provider) are not otherwise entitled to a GST credit, are classified as type 2 benefits. They are grossed-up at the lower gross-up rate (see 2.11).

2.7 ESTABLISHING THE INDIVIDUAL FRINGE BENEFITS AMOUNT

You must allocate the taxable value of all fringe benefits, except excluded fringe benefits, related to an FBT year to the relevant employee. This is the employee's individual fringe benefits amount. Where you provide benefits to an associate of an employee in respect of that employee's employment, you allocate the value to the employee, not to the associate.

The taxable value of a fringe benefit is established from a series of valuation rules. There are different categories of fringe benefit and each has its own specific rules for calculating the taxable value. These rules are set out in later chapters of this guide on the specific types of fringe benefits.

2.8 EMPLOYEE CONTRIBUTIONS

In most categories, if an employee makes a payment to you as a contribution towards the cost of providing a fringe benefit, the taxable value of that fringe benefit is reduced by the amount of the payment. Such a payment is referred to as an employee contribution (or recipient's contribution).

Some important points to note about employee contributions are:

- an employee contribution may be made only from an employee's after-tax income
- you cannot use an employee contribution towards a particular fringe benefit to reduce the taxable value of any other fringe benefit
- in certain circumstances, journal entries in your accounts can be an employee contribution
- an employee contribution paid directly to you (including those received by journal entry) are included in your assessable income (as a general rule, the costs you incur in providing fringe benefits are income tax deductible)
- an employee contribution paid to a third party who is not an associate (for example, for the servicing of a car) is not assessable to you, and
- when calculating the taxable value of either a type 1 or type 2 benefit, you use the full GST-inclusive amount of the contribution to reduce the taxable value of the benefit.

2.9 EXCLUDED FRINGE BENEFITS

Excluded fringe benefits are those fringe benefits that do not have to be reported on payment summaries. See 5.2 for a list of these benefits.

2.10 CALCULATING THE FRINGE BENEFITS TAXABLE AMOUNT

Use the following steps to calculate your fringe benefits taxable amount:

Step	Action
1	For each employee, identify those fringe benefits that are **GST-creditable benefits**. Work out the employee's **individual fringe benefits amount** (see 2.7) for those benefits.
2	Add up all the **individual fringe benefits amounts** worked out in step 1.
3	Identify the **excluded fringe benefits** (see 2.9) that are **GST-creditable benefits**.
4	Add up the totals from steps 2 and 3. This is known as the **type 1 aggregate fringe benefits amount**.
5	For each employee, identify those benefits that are not taken into account under step 1. Work out the **individual fringe benefits amount** for each employee for those benefits.
6	Add up all the **individual fringe benefits amounts** worked out in step 5.
7	Identify the **excluded fringe benefits** that are not taken into account under step 3 and add up the taxable value of those **excluded fringe benefits**.
8	Add up the totals from steps 6 and 7. This is known as the **type 2 aggregate fringe benefits amount**.
9	Calculate the fringe benefits taxable amount (see 2.11) by grossing up the **type 1 aggregate fringe benefits amount** and the **type 2 aggregate fringe benefits amount** and adding them together.
10	Calculate the amount of tax payable as a percentage of the **fringe benefits taxable amount**.

2.11 THE FRINGE BENEFITS TAXABLE AMOUNT

Higher gross-up formula (type 1)

The higher gross-up formula was introduced to avoid allowing employers the benefit of GST credits for goods and services purchased for the private use of employees. The higher gross-up rate effectively recovers the GST credit you can obtain in providing a fringe benefit. You use the following formula to calculate the higher gross-up rate.

$$\text{Type 1 aggregate fringe benefits amount} \times \frac{\text{FBT rate + GST rate}}{\text{(1 – FBT rate) × (1+GST rate) × FBT rate}}$$

The higher FBT gross-up formula results in a gross-up rate of **2.0647** where the FBT rate is 46.5% and the GST rate is 10%. Prior to the FBT year commencing 1 April 2006, the FBT rate was 48.5% and the higher gross-up rate was 2.1292.

The type 1 aggregate fringe benefits amount represents the total taxable values of fringe benefits (including any excluded fringe benefits) that are GST-creditable benefits (see 2.5).

Lower gross-up formula (type 2)

Fringe benefits and excluded fringe benefits that are not type 1 benefits are called type 2 benefits. The lower gross-up rate is used for type 2 benefits. You use the following formula to calculate the rate.

$$\text{Type 2 aggregate fringe benefits amount} \times \frac{1}{\text{(1 – FBT rate)}}$$

The type 2 FBT gross-up formula results in a gross-up rate of **1.8692** where the FBT rate is 46.5%. Prior to the FBT year commencing 1 April 2006, the lower gross-up rate was 1.9417.

The type 2 aggregate fringe benefits amount represents the total taxable values of all other fringe benefits (including any excluded fringe benefits) that are not type 1 benefits.

Formula for calculating the fringe benefits taxable amount

You calculate your fringe benefits taxable amount as follows.

$$\text{Type 1 aggregate fringe benefits amount} \times \frac{\text{FBT rate + GST rate}}{\text{(1 – FBT rate) × (1+GST rate) × FBT rate}}$$

plus

$$\text{Type 2 aggregate fringe benefits amount} \times \frac{1}{\text{(1 – FBT rate)}}$$

EXAMPLE: Using gross-up rates

An employer provides the following benefits to a single employee.

Car fringe benefit (GST taxable supply with an entitlement to GST credits).	$7,700
Restaurant meals valued as expense payment fringe benefits (excluded fringe benefit with an entitlement to GST credits).	$1,100
School fees valued as expense payment fringe benefits (GST-free supplies with no entitlement to GST credits).	$6,000
Remote area rent reimbursement (excluded fringe benefit with no entitlement to GST credits).	$3,000
Type 1 individual fringe benefits amount (steps 1 and 2)	$7,700
Type 1 excluded fringe benefits amount (step 3)	$1,100
Employer's type 1 aggregate fringe benefits amount (step 4)	$8,800
Type 2 individual fringe benefits amount (steps 5 and 6)	$6,000
Type 2 excluded fringe benefits amount (step 7)	$3,000
Employer's type 2 aggregate fringe benefits amount (step 8)	$9,000

If the FBT rate is 46.5% and the GST rate is 10%, the employer's fringe benefits taxable amount is calculated as follows:

$$\$8{,}800 \times \frac{46.5\% + 10\%}{(1 - 46.5\%) \times (1 + 10\%) \times 46.5\%}$$

= $8,800 × 2.0647

= $18,169 (rounded down to the nearest dollar)

Plus

$$\$9{,}000 \times \frac{1}{(1 - 46.5\%)}$$

= $9,000 × 1.8692

= $16,822 (rounded down to the nearest dollar)

The total fringe benefits taxable amount (step 9) = $34,991

2.12 CALCULATING THE FBT PAYABLE

The tax payable is the fringe benefits taxable amount multiplied by the rate of tax.

EXAMPLE

If the fringe benefits taxable amount is $34,991 and the rate of tax is 46.5%, the tax payable is $16,270.81, that is, $34,991 × 46.5% (step 10 from 2.10).

The rate of tax may vary from year to year, but you will be advised of the rate each year. The current FBT rate is 46.5%. For future years, check to see if the rate has changed.

Chapter 6 contains an explanation of how to calculate FBT if you are a non-profit organisation.

MORE INFORMATION

- Miscellaneous Tax Ruling MT 2050 – Fringe benefits tax: payment of recipients contribution by journal entry.

3 HOW FBT WORKS

This chapter explains how you register for FBT, lodge your return and pay the tax. It also provides information about amending your FBT return, your objection, review and appeal rights, and taxation rulings.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

3.1 REGISTRATION

We recommend you register once you establish that you have to pay FBT. To register for FBT, complete an *Application for registration – fringe benefits tax* (NAT 1055) and send it to the Tax Office.

Once you are registered, we will send you additional information to help you lodge your return. We also notify you if there is a change to any of the rates you need to calculate the FBT you have to pay. You do not need to make your first payment until you lodge your first FBT return.

Your FBT number is the same as your tax file number.

3.2 ANNUAL RETURN

The FBT year runs from 1 April to 31 March each year. You must lodge your annual FBT return with the Tax Office by 21 May each year, unless you have made an arrangement with us for an extension of time to lodge. Any returns received later than the first business day after 21 May without prior arrangement may incur an administrative penalty if you fail to lodge the FBT return on time.

Using the rules explained in this guide, you can calculate the FBT you have to pay. This amount is shown on your annual return and is the basis of your assessment. You are also required to provide some other brief details on your annual return, such as the different categories of fringe benefits provided, the total taxable value of each category, and the total employee contributions for some categories.

Tax agents can send clients' FBT returns directly to the Tax Office via the electronic lodgment service (ELS), in the same way they lodge income tax returns electronically. If you are lodging a paper return, mail your completed and **signed** return to:

WA, SA, NT, TAS & VIC clients
Taxation Office
Locked Bag 1936
ALBURY NSW 1936

ACT, NSW & QLD clients
Taxation Office
Locked Bag 1793
PENRITH NSW 1793

You don't need to lodge an FBT return if your fringe benefits taxable amount for the year is nil. If you are registered for FBT but don't need to lodge an FBT return you must complete a *Notice of non-lodgment fringe benefits tax* (NAT 3094) and send it to:

Australian Taxation Office
Locked Bag 1793
PENRITH NSW 1793

However, if you had FBT instalment obligations during the year and did not vary those instalments to nil, lodging an FBT return will allow us to update your account to ensure these credits are made available to you.

Requests for deferral of time to lodge

If you need additional time to lodge your return, we may be able to arrange a deferral of time to lodge. Please write, before the due date, to:

Australian Taxation Office
PO Box 9820
DANDENONG VIC 3175

You will be granted a deferral only where there are extenuating circumstances.

Organisations with more than one office

You lodge one FBT annual return, covering the fringe benefits provided to all your employees. This is the case even if you have decentralised operations (for example, you own several branch offices or businesses).

On the other hand, employers who form part of a corporate group (that is, a group of associated companies) must lodge a separate FBT annual return for each employer in the group that provides employees with fringe benefits.

3.3 FBT ASSESSMENTS

We do not usually issue FBT assessment notices. This is because the tax is self-assessed by employers. In effect, assessment occurs when you lodge a properly completed annual return.

The basis of this self-assessment lies in the following steps that are taken to occur on the day your annual return is lodged with us.

- The Commissioner of Taxation is regarded as having made an assessment of your fringe benefits taxable amount and also of the total amount of tax payable.
- The annual return is regarded as being a notice of the Commissioner's assessment.
- The notice of assessment is regarded as having been served on you, the employer.

If you do not lodge a self-assessed FBT return, the Commissioner may assess your FBT payable and serve notice of that assessment.

3.4 AMENDMENTS

If you realise after lodging your return that you have made a mistake, request an amendment by writing as soon as possible to:

Australian Taxation Office
PO Box 9831
TOWNSVILLE QLD 4810

If you request an amendment, you must provide the reason for the amendment and sufficient information about the changes to the taxable values of the affected benefits. You must sign the request or have your tax agent sign on your behalf, and provide the following information:

- name of employer
- employer's tax file number
- reason for the amendment
- exact adjustment to each benefit type, including the corrected taxable values
- whether the benefits are type 1 or type 2, and
- the amended taxable value.

The Commissioner may amend an FBT assessment if:

- you don't disclose benefits or wrongly value benefits, or
- you request an amendment to your FBT payable (for example, because you have overpaid or underpaid FBT).

> ❗ As you may incur a penalty for an incorrect return, it is important to advise us of any mistakes early. An amendment can usually be made only within three years from the date an FBT return is lodged. However, where tax has been avoided, the amendment can be made within six years of lodgment. In cases of fraud or evasion, there is no time limit on when the Commissioner can amend an assessment.

3.5 PAYING FBT

If you have not previously paid FBT or if the amount of FBT payable in the previous year was less than the instalment threshold (currently $3,000), you pay the tax once a year when you lodge your annual FBT return.

If you had to pay FBT of $3,000 or more in the previous year, you pay the tax quarterly with your activity statement. This is the case even if you estimate you will pay less than $3,000 FBT in the current year.

Instalments on the activity statement

If you have to pay your FBT liability in quarterly instalments, we will send you an activity statement with your instalment amount printed on it. The amount on which instalments are based is called the **notional tax amount**. Generally, this amount is the same as your previous year's liability.

The instalment amount is simply one quarter of the notional tax amount. For example, if you had to pay $20,000 FBT for the year 1 April 2006 to 31 March 2007, the instalments payable for the following year would be $5,000 each quarter. You make any balancing payment when you lodge your annual return. If your instalments are more than your annual liability and you have no other taxes outstanding, we will refund you the difference.

Varying instalments on the activity statement

If you estimate that your FBT payable will be less than the notional tax amount, you may vary your quarterly instalment on your activity statement. However, you may vary an FBT instalment only if you lodge your activity statement by the due date. To do this, you must record on your activity statement the estimated amount of tax payable for the whole year, the varied FBT instalment and a reason code for the variation.

The amount payable as a varied instalment is a quarter of the estimated FBT liability for the year. Refer to the *Activity statement instructions FBT* (NAT 7389) for specific advice on how to complete the FBT section of your activity statement.

EXAMPLE

An employer's notional tax amount is $20,000. The instalment ordinarily payable is $5,000. However, before paying the first instalment, the employer estimates that their FBT liability for the year will be $16,000. Provided the variation is notified on the activity statement, the employer may pay varied instalments of $4,000.

If you vary your instalment on the second or third quarter activity statement, you can use the excess paid on any earlier instalments as part-payment of the varied instalments. However, the amount of a varied instalment must be sufficient to ensure that:

- for the quarter ended 30 June, 25% of your estimated liability for the year is paid
- for the quarter ended 30 September, 50% of your estimated liability for the year is paid
- for the quarter ended 31 December, 75% of your estimated liability for the year is paid, and
- for the quarter ended 31 March, 100% of your estimated liability for the year is paid.

EXAMPLE

An employer's notional tax amount is $20,000. They:

- pay $5,000 as the first instalment, based on the notional tax amount, and
- when the second instalment is due, lodge a variation based on an estimated annual tax payable of $16,000.

The amount payable for the second instalment is half of the estimated liability, less the amount already paid (that is, half of $16,000, less $5,000). The amount payable is therefore $3,000.

Similarly, the amount payable for the third instalment is three-quarters of the estimated liability, less the amounts already paid (that is, three-quarters of $16,000, less $8,000). The amount payable is therefore $4,000.

You can lodge more than one variation during the year and can even vary each instalment payment.

> ! It is important to take care when you vary your instalment amount as you may incur a general interest charge if you underpay your FBT liability for the year.

Variation below instalment threshold

Where your notional tax amount (based on your previous year's liability) is more than the instalment threshold, you must pay your annual FBT liability in quarterly instalments. This is the case even where your estimated liability for the year is less than the instalment amount.

EXAMPLE

The instalment threshold is $3,000.

An employer's notional tax, based on the previous year's liability, is $4,000. At the time of the first instalment, the employer estimates that their liability for the year will be $2,400 and lodges a variation to that amount.

Even though the estimated notional tax is less than the instalment threshold, the employer still has to pay instalments of a quarter of $2,400 (that is, $600).

Reason code for variation

If you vary your FBT instalment amount, you must explain why by showing on your activity statement the reason code which best describes your circumstances.

Reason for varying	Code
Current business structure not continuing	22
Change in fringe benefits for employees	30
Change in employees with fringe benefits	31
Fringe benefits rebate now claimed	32

How to pay

You must pay the total amount of FBT payable by 21 May or the first business day after, unless other arrangements have been made with the Tax Office.

> ! All FBT payments can be rounded down to the nearest multiple of five cents.

The Tax Office offers several different payment methods.

BPAY

BPAY® allows clients to transfer funds electronically from their cheque or savings accounts to the Tax Office using their financial institution's phone or internet banking service.

Clients quote the Tax Office biller code (75556) and the EFT

® Registered to BPAY Pty Ltd ABN 69 079 137 518

code as the customer reference number. If you need assistance locating or identifying the EFT code please phone **1800 815 886**.

Clients should check with their financial institution for processing deadlines to ensure their payments reach the Tax Office on or before the due date.

Direct credit

If clients have a desktop computer banking software package, or access to a Third Party/Pay Anyone option through their internet banking facility, they can make their payments by direct credit. Send payments from a cheque or savings account to the ATO Direct Credit account BSB No 093 003 Acc No 316 385. You need to enter your EFT code in the lodgment reference field. For more information about direct credit payments phone **1800 815 886**.

Direct debit

Direct debit provides clients with the option of having their tax liability electronically debited from a financial institution account (not credit cards). Phone **1800 802 308** for a direct debit request form and/or details.

Mail payments

Clients can mail a cheque or money order to the address printed on their payment slip forwarded by the Tax Office. If a payment slip is not available, supply the following details:

- name
- address
- tax file number, Australian business number or client identification number, and
- type of payment.

Mail to either:

- WA, SA, NT, TAS, and VIC clients:

  Australian Taxation Office
  Locked Bag 1936
  ALBURY NSW 1936

- NSW, ACT and QLD clients:

  Australian Taxation Office
  Locked Bag 1793
  PENRITH NSW 1793

Cheques and money orders should be made payable to the 'Deputy Commissioner of Taxation' and crossed 'Not negotiable'. Cheques must be tendered in Australian dollars and must not be post-dated. Clients should allow sufficient time for their payment to reach the Tax Office on or before the due date. Late payments may be subject to the general interest charge. For more information about mail payments phone **1800 815 886.**

Post office payments

If clients have a pre-printed payment slip with a barcode, they can pay in person at any Australia Post outlet. Photocopies of payment slips are not accepted. A receipt is issued for any payment made in person at a post office. Payments can be made with cash (a $3000 limit applies), money order or cheque. EFTPOS is also available at most Australia Post outlets. Payments (up to your daily withdrawal limit) can only be made using savings or cheque accounts. For more information about paying in person at an Australia Post outlet, phone **1800 815 886**.

> ❗ Please do not present returns at post offices or licensed agencies.

Payment difficulties

If you cannot pay your FBT on time, you should phone **13 11 42** between 8.00am to 6.00pm, Monday to Friday and explain your reasons.

3.6 OBJECTION, REVIEW AND APPEAL RIGHTS

You can object to a decision relating to an assessment or an amendment to an assessment in the following ways.

Objection

For your objection to be accepted it must:

- be in writing
- be lodged with the Commissioner within certain time limits (if you have not requested an extension of time), and
- state the grounds for the objection fully and in detail.

You must lodge objections within four years of the date of your notice of assessment or self-assessment.

If the objection relates to an amended assessment, you must lodge it within four years of the date of the notice of the assessment that was amended, or within 60 days of the notice of the amended assessment, whichever is the later. The time limit may be extended, but this will only be done in limited circumstances, for example, where you can show that the delay in lodging the objection was due to circumstances beyond your control.

When we provide you with our decision on your objection, we will include information that explains what you can do if you are dissatisfied with the objection decision.

Review

If you are dissatisfied with the decision on an objection, you may seek a right of review by the Administrative Appeals Tribunal or appeal to the Federal Court.

To obtain a review by the Administrative Appeals Tribunal, you should lodge an appeal directly with the tribunal, within 60 days from the date the notice of decision on the objection was served. A referral fee applies, but is refunded if your appeal is successful. If you are dissatisfied with the decision by the Administrative Appeals Tribunal on a question of law, you have the right to appeal to the Federal Court.

If you appeal to the Federal Court against the Tax Office's decision on an objection, you must lodge an application directly with the Federal Court within 60 days of the date the notice of the decision on the objection was served. You must then serve a sealed copy of the application on the Commissioner of Taxation at the office of the Australian Government Solicitor.

Under either alternative, you can request an extension of the 60-day referral period. In doing this, you must supply full details of the reasons why your request for referral of the matter to the tribunal or court was not lodged within the 60-day period. The tribunal or court will decide whether an extension of time will be granted.

3.7 TAXATION RULINGS

The Tax Office issues rulings and determinations to advise taxpayers of our views on the interpretation and application of tax law, including FBT law.

Public rulings

A public ruling is a written expression of the Commissioner's opinion of the way in which a relevant tax law applies, or would apply to:

- any person in relation to a class of arrangements
- a class of persons in relation to an arrangement, or
- a class of persons in relation to a class of arrangements.

An 'arrangement' includes a scheme, plan, proposal, course of action, course of conduct, transaction, agreement, understanding, promise or undertaking. It also includes part of an arrangement.

A public ruling is binding on the Tax Office where the ruling is favourable to you, the employer. For example, if the amount of your tax payable under a proper application of the law is more than the amount payable in accordance with the ruling, your FBT liability is determined as if the ruling were correct.

If there are conflicting public rulings, the ruling most favourable to you applies for the purposes of assessing your FBT liability.

Class rulings

Class rulings are a form of public rulings that enable the Commissioner to provide legally binding advice, in response to a request from an entity seeking advice about the application of a relevant provision to a specific class of persons, in relation to a particular arrangement.

The purpose of a class ruling is to provide certainty to participants and prevent the need for individual participants to seek private rulings.

Private rulings

A private ruling is a written expression of the Commissioner's opinion of the way in which a relevant provision applies, or would apply, to you in relation to a specified scheme. It may deal with anything involved in the application of relevant provision, including issues relating to liability, administration, procedure and collection, and ultimate conclusions of fact.

The difference between a private ruling and a public ruling is that private ruling deals with a specific course of action by a particular person, whereas a public ruling is provided for the information of a person or class of persons generally.

Typically you can apply for a private ruling when you want certainty about the way a tax law applies to your particular circumstances. For example, if you are uncertain about the FBT liability that may arise from an existing or proposed arrangement, you may apply for a private ruling on that arrangement.

You must apply in the approved private ruling application form and provide the required information and supporting documents.

If your affairs are based on a private ruling that applies to you, the Commissioner will be bound to act in the way set out in the ruling, even if the private ruling is later found to be incorrect.

Objection to a private ruling

You can object to most private rulings in the same way as you can object to a tax assessment. You must lodge your objection before the later of:

- 60 days after notice of the ruling is served on you, or
- four years from the last day allowed for lodging a return for the FBT year covered by the ruling.

If dissatisfied with the decision on the objection, you may apply to the Administrative Appeals Tribunal for a review of the decision, or appeal to the Federal Court against the decision.

3.8 COMPLIANCE MEASURES

There are penalties for lodging incorrect returns or late returns, or failing to lodge returns. A general interest charge applies to all outstanding amounts of FBT, including FBT instalments and understatements of FBT instalments. In addition, there are substantial penalties for underpayments of tax arising from false or misleading statements.

RECORD KEEPING 4

This chapter provides information about the records you need to keep to enable your FBT liability to be assessed. It also explains the circumstances in which you are not required to keep full FBT records (the record keeping exemption arrangements).

> ❗ Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

4.1 GENERAL RECORD KEEPING REQUIREMENTS

There is a general requirement that you must keep sufficient records to enable your FBT liability to be assessed. Your records must be written in English or, if in electronic form (for example, on computer), made readily accessible and convertible into written English. For record keeping purposes, electronic records (including encrypted records) are subject to the same record keeping requirements as paper records. For FBT purposes, these records must be kept for five years from the date they are prepared, obtained or the transactions completed, and in a form that tax officers can access and understand in order to determine your tax liability.

You need to keep records that show the following.

- The taxable value of each fringe benefit provided to each employee (that is, its value before it is grossed up). Some examples of records you may need to keep are invoices, receipts, travel diaries, logbooks, odometer records and employee declarations.
- The method of allocating the taxable value of a fringe benefit provided to two or more employees. This may include any reasonable agreement between an employer and an employee regarding the apportionment of fringe benefits.
- That 100% of the taxable value of the benefits has been allocated to employees. The taxable value of excluded benefits (such as remote area housing assistance) doesn't need to be allocated to individual employees.

Where a fringe benefit is provided by an associate, the associate is required to provide copies of the records to you within 21 days of the end of the FBT year. Both you and the associate are required to keep the records for five years from the date of the relevant transaction.

You must also keep specific records if you want to take advantage of various exemptions or concessions that reduce your FBT liability. These documents must be kept for five years from when the relevant FBT return is lodged. Examples of these records are:

- all documents you are required to obtain from employees, such as declarations, invoices and/or receipts, bills of sale, lease documents, travel diaries, copies of logbooks, odometer records, and
- where the benefit is a car fringe benefit valued under the operating cost method, fleet management records, logbook records and odometer records.

For some concessions and exemptions you have to obtain 'documentary evidence' of expenditure by an employee. Broadly, you are required to obtain the original invoice and/or receipt from the employee. This must show the date of the receipt or invoice, the date of the expense, the name of the supplier, what was bought and the amount paid.

You must make elections and declarations and obtain all employee declarations no later than the day on which your FBT return is due to be lodged with the Tax Office or, if you do not have to lodge a return, by 21 May. There is no need to notify the Tax Office of the election or declaration as your business records are sufficient evidence of this.

4.2 LOGBOOK RECORDS AND ODOMETER RECORDS

Logbook and odometer records are kept when you use:

- the operating cost method to calculate the taxable value of a car fringe benefit (see chapter 7), or
- the first method for employee cars when applying the 'otherwise deductible' rule (see chapter 21).

In a logbook year, you must keep both types of records. In a year other than a logbook year, you need keep only odometer records.

A logbook year commonly occurs when you use the operating cost method to value a car fringe benefit for the first time. The term is dealt with in more detail in 7.8.

Logbook records contain a record of business use and are usually maintained for a continuous 12-week period. Odometer records are a record of the total distance travelled during the same 12 weeks that logbook records are maintained, and the total distance travelled each year. The 12-week period chosen should be representative of the car's business use.

You should keep records of additional information such as the car's make, model, and registration number and percentage of business use as part of your business records.

Information to be recorded in logbook records

We do not produce an official logbook but we have provided a sample that you can use. If you prefer you can design your own logbook or buy one of the many commercial products available. Regardless of which type of logbook you use, the following details must be recorded for each business journey:

- the date(s) on which the journey began and ended
- the odometer readings at the start and end of each journey
- the kilometres travelled, and
- the purpose of the journey.

Your logbook records must be in English and entries should be made at the end of a trip or as soon as reasonably practicable afterwards.

Where two or more business trips are undertaken consecutively on any day, only one entry for the series needs to be recorded in the logbook. For example, an entry for a salesman who called on 10 customers while working in the Bathurst-Orange area of New South Wales could record the odometer readings at the start and end of the consecutive journeys and describe the purpose of the travel as '10 customer calls, Bathurst-Orange area'.

The period during which the logbook is kept must be specified. This continuous period may overlap two tax years. You can keep your logbook for up to five years (assuming there is no major change in the pattern of use). After the fifth year, you will need to keep a new logbook.

Information to be recorded in odometer records

Odometer records are a record of the total kilometres travelled by a car during the FBT year or for that part of the year when it was used to provide fringe benefits. Odometer records should be kept for the same period for which a logbook is kept.

As with logbooks, we do not produce an official odometer record form. You are entitled to keep records of your own design, or to purchase one of the many commercial products available. However, the following details must be recorded for the beginning of each period (that is, year, part-year or logbook period) and also for the end of each period:

- the date the period began, or ended, and
- the odometer reading at the start of the period.

The odometer records must be in English, and the entries should be made at, or as soon as reasonably practicable after, the respective times to which the readings relate.

If you replace a car during the year and the business percentage is transferred to a new car, the odometer records must also include an entry showing odometer readings of the replaced car and the new car on the replacement date.

Sample car logbook record

Here is a sample record from a logbook:

Employer name	**FBT year ended 31 March 2007**

Make: Holden		Model: Commodore		Engine Type: 3,800cc		Registration No: AAA 999
Date trip began	Date trip ended	Odometer start	Odometer end	Kilometres travelled		Purpose of the journey
				Business km	Private km*	
06/06/2006	06/06/2006	118,500km	118,570km	70km	0km	Visit mechanic, Tax Office
07/06/2006	07/06/2006	118,570km	118,580km	0km	10km	Private travel

Private travel is not required to be shown, but you may include it in your records to help with calculations.

> ❗ You need one logbook per car.

Sample odometer reading

Here is a sample odometer reading, showing the type of odometer records you need to keep:

Employer name	**FBT year ended 31 March 2007**

Car Make	Model	Registration number	Start		End	
			Date	Odometer reading	Date	Odometer reading
Holden	Commodore	AAA 999	01/04/2006	116,000 km	31/03/2007	126,000km

An odometer record can be used for more than one car. Do not add together the kilometres travelled by the old and new cars.

4.3 THE 'OTHERWISE DEDUCTIBLE' RULE AND TRAVEL DIARIES

If you use the otherwise deductible rule, you must have certain documentation to substantiate the extent to which the benefit provided would have been 'otherwise deductible' to the employee. You must obtain the documentation from the employee before lodging the relevant FBT return.

A 'travel diary' is a diary or similar document that you must obtain from an employee where:

- you provide a fringe benefit for travel within Australia for six or more consecutive nights and the travel is not exclusively for performing employment-related duties (the fact that the business travel requires the employee to stay away over a weekend will not, in itself, mean the trip is not undertaken exclusively in the course of their employment), or
- you provide the benefit for travel outside Australia for six or more nights.

A travel diary shows where the activity took place, the date and the approximate time when the activity commenced, the duration and the nature of the activity.

The requirement to obtain a travel diary is waived where the employee is performing employment-related duties as a member of an aircrew travelling outside Australia and the property provided is for accommodation, food or drink, or is otherwise incidental to the travel.

A travel diary is used to substantiate the following fringe benefits:

- airline transport (see chapter 12)
- expense payment (see chapter 9)
- property (see chapter 17), and
- residual (see chapter 18).

4.4 REPORTABLE FRINGE BENEFITS

If you provide fringe benefits with a total taxable value of more than $1,000 to an employee in an FBT year, you must report the grossed-up taxable value of the fringe benefits on the employee's payment summary for the corresponding income year (1 July to 30 June). These are called reportable fringe benefits.

You will need to keep records in sufficient detail to be able to report each individual's fringe benefits amount.

The Government has announced that from 1 April 2007, the fringe benefits reporting exclusion threshold will increase from $1,000 to $2,000.

Chapter 5 contains more details about reportable fringe benefits.

Correcting an amount on a payment summary already issued

Where you have inadvertently understated an employee's reportable fringe benefits amount by $195 or less, you do not have to amend the employee's payment summary unless the Commissioner is of the view that you deliberately understated the amount of fringe benefits provided to the employee.

To correct a reportable fringe benefits amount on a payment summary already issued to an employee, you need to prepare four copies of a letter, stating:

- your name, address and Australian business number (ABN)
- details of the correct reportable fringe benefits amount for the employee, and
- an explanation for the changed amount.

Give two copies of the letter to the employee, who should keep one copy for their own records and attach the other copy to their tax return. If the employee has already lodged their tax return, they should request an amendment to their reportable fringe benefits amount and include a copy of your letter with their request.

You should keep one copy of the letter and forward the other copy to your nearest tax office.

If the change alters the amount of your FBT payable, you also need to request an amendment to your FBT return (see 3.4).

4.5 ELECTRONIC RECORDS

Electronic record keeping systems

The information recorded in a computerised accounting system is generally the same as that contained in a manual accounting system. If you choose to keep your business records electronically, your records must be in a form that tax officers can access and understand in order to determine your FBT liability. You can choose at any time to satisfy access requests by providing a printed copy of your electronic records and, where necessary, system documentation.

Essential elements of an electronic record keeping system

There are important guidelines you need to follow in electronic record keeping. These include the following.

Record retention

You should retain electronic records for the same length of time that you retain paper records. For FBT purposes, this is for a period of five years.

Data security and integrity

You should be able to demonstrate that your electronic records system is secure from both unauthorised access and data alterations.

System documentation

The entire electronic records system should be documented, including physical and logical descriptions of the system's structure and programs, including all inputs and outputs.

Retaining archival copies

It is generally not necessary to keep a hard copy of the information contained in an electronic record unless a particular law or regulation requires you to keep paper copies.

Accessibility

Electronic records should be readily accessible. To this end, you should ensure the conversion of electronic records to a compatible format when upgrading or changing data-processing capabilities.

Storing paper records electronically

Whether you use a manual or a computerised accounting system, you may want to store and keep paper records electronically. Advances in technology such as the internet, have meant that many business transactions are processed and kept electronically rather than through a paper based system. This includes encrypted records. These records must be in a form which we can access and understand.

Where paper records are produced or received in the course of carrying on a business, you may scan the paper records onto an electronic storage medium, provided the electronic copies are a true and clear reproduction of the original paper records.

Where paper records are scanned and stored electronically, record keeping requirements are satisfied if the electronic records are:

- not altered or manipulated once stored
- retained for the statutory period of five years, and
- capable of being retrieved and read at all times by tax officers. You are expected to provide appropriate facilities for viewing electronic records kept in that format and, where necessary, for printing a paper copy or providing an electronic copy.

Paper records that can be scanned and stored include:

- invoices, purchase orders, receipts, vouchers, credit notes, delivery dockets and other such records
- bank statements and other bank records and documents, and
- any other paper source documents produced or received in the course of carrying on a business.

You do not have to keep original paper records once they have been scanned onto an electronic storage medium.

Internet and electronic data interchange transactions

Many businesses transfer data and information electronically to both internal and external sources. This process is commonly referred to as electronic data interchange (EDI). If you do conduct business transactions through the internet or by EDI you are required to keep records explaining all relevant transfers. All other requirements relating to electronic record keeping systems explained above still apply.

If electronic information systems are used to conduct business transactions such as those that may be conducted by websites, there will be no evidence of those transactions. Without this evidence your organisation or business may not be considered to have complied with its record keeping requirements. Some businesses, however, use electronic information systems that have special functionality for maintaining the integrity of the digital data as electronic records over time to conduct business transactions. These organisations will have developed software integration between record keeping systems and other corporate systems to ensure that data can be seamlessly and deliberately captured as electronic records.

For more information about electronic records, see Taxation Ruling TR 2005/9 – Income tax: record keeping – electronic records.

4.6 RECORD KEEPING EXEMPTION ARRANGEMENTS

The record keeping exemption arrangements provide certain employers with an alternative means of calculating their FBT liability. These arrangements mean that an employer is not required to keep full FBT records.

If you use the record keeping exemption arrangements, you may still be required to record the value of fringe benefits on employees' payment summaries (see chapter 5).

Who may use the record keeping exemption arrangements?

You can elect to use the record keeping exemption arrangements if:

- you are not a government body or income tax exempt at any time during the current year
- the Commissioner has not issued a notice requiring you to resume keeping records
- you were in business for the whole of the base year
- you kept FBT records in the base year
- you lodged the FBT return for the base year by the due date
- the aggregate fringe benefits amount (total of taxable values of all fringe benefits, see 2.10) in the base year did not exceed the exemption threshold
- you have elected that the record keeping exemption arrangements apply in all years from the most recent base year to the current year
- the aggregate fringe benefits amount for benefits provided in the current year is not more than 20% greater than it was in the most recent base year, unless the difference is $100 or less, and
- the above conditions are also satisfied for all years between the base year and the current year.

The base year

The base year may be the FBT year ended 31 March 1997 or any following year. The exemption thresholds are shown in the following table:

FBT year ended	Exemption threshold
31 March 2000	$5,191
31 March 2001	$5,268
31 March 2002	$5,505
31 March 2003	$5,747
31 March 2004	$5,919
31 March 2005	$6,084
31 March 2006	$6,223
31 March 2007	$6,391

We will announce exemption thresholds for later years as they become available.

Records relating to the base year

Records kept in the most recent base year must be kept for five years after the end of any year in which the record keeping exemption arrangements applied.

Records relating to years where the exemption arrangements are applied

If you elect to use the record keeping exemption arrangements, you are required to keep records of benefits provided to employees by your associates.

It is important to note that you may still need to keep records for income tax or other purposes.

Calculating FBT liability under the exemption arrangements

In calculating your FBT liability in the current year, you use the aggregate fringe benefits amount for the most recent base year.

Determine whether the aggregate fringe benefits amount has increased by more than 20%

You use special rules to calculate the taxable value of car fringe benefits under the statutory formula and the operating cost methods to determine whether the aggregate fringe benefits amount in the current year has exceeded the 20% or $100 tolerance limit.

For the statutory formula method (see 7.4) the statutory fraction established for a car in the most recent base year may be used for that car (or a replacement car) in the current year, provided the annualised number of kilometres in the current year is at least 80% of the annualised number of kilometres in the base year. Where you first provide the car benefit in a year later than the base year, you may use the statutory fraction established in that later year, provided the number of annualised kilometres in the current year is at least 80% of the number of annualised kilometres in the first year.

For the operating cost method (see 7.5), the business use percentage used for calculating a car benefit in the most recent base year may be used for that car (or a replacement car) in the current year, provided the business use percentage in the current year is at least 80% of the business use percentage in the base year. Where you first provide the car benefit in a year later than the base year, you may use the business use percentage established in that later year, provided the business use percentage in the current year is at least 80% of the business use percentage in the first year.

Employer is not in business throughout current year

If you are not in business for the whole of the current year, you must adjust the aggregate fringe benefits amount in the base year in accordance with the following formula.

$$\frac{\text{Aggregate fringe benefits amount in most recent base year} \times \text{Number of days in the current year during which the employer carried on business operations}}{\text{Number of days in current year}}$$

4.7 EMPLOYEE DECLARATIONS

It is not necessary for you to send employee declarations to the Tax Office, however they should be kept by you as part of your tax records. These declarations are required to be in a form approved by the Commissioner. The approved wording and information to be contained in these employee declarations are included throughout this guide, as shown in the following table.

Declaration	Paragraph reference
Fuel expenses	7.8
Loan fringe benefit	8.9
Expense payment benefit	9.5
Recurring expense payment fringe benefit	9.5
Temporary accommodation relating to relocation	10.7, 19.4
Living away from home	11.7, 19.4, 20.4
Airline transport benefit	12.5
Property benefit	17.6
Recurring property benefit	17.6
Residual benefit – vehicles other than cars	18.6
Residual benefit	18.8
Recurring residual fringe benefit	18.8
Remote area holiday transport	19.2
Employment interview or selection test	19.3
Declaration of car travel to work-related medical examination, medical screening, preventative health care, counselling or migrant language training	19.3
Relocation transport	19.4
No-private-use declaration – residual benefits	20.3
No-private-use declaration – expense payment benefits	20.8
Employee's car	21.6

Copies of employment declarations are available in PDF format on our website at **www.ato.gov.au**

MORE INFORMATION

- Taxation Ruling TR 96/7 – Income tax: record keeping – section 262A – general principles.
- Taxation Ruling TR 2005/9 – Income tax: record keeping – electronic records.
- Taxation Determination TD 2006/15 – Fringe benefits tax: For the purposes of section 135C of the *Fringe Benefits Tax Assessment Act 1986 (FBTAA)*, what is the exemption threshold for the fringe benefits tax year commencing on 1 April 2006?
- Taxation Determination TD 2005/11 – Fringe benefits tax: For the purposes of section 135C of the *Fringe Benefits Tax Assessment Act 1986 (FBTAA)*, what is the exemption threshold for the fringe benefits tax year commencing on 1 April 2005?
- Law Administration Practice Statement PS LA 2002/7 – Amendment of an employer's fringe benefits tax assessment which requires an adjustment to a previously advised reportable fringe benefits amount.

5 REPORTABLE FRINGE BENEFITS

If the value of certain fringe benefits provided to your employees exceeds $1,000 in an FBT year, you are required to record the grossed-up taxable value of those benefits on your employee's payment summary. This chapter explains these reporting requirements.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

You (the employer) have to record the value of fringe benefits provided to each of your employees. If the value of certain fringe benefits provided exceeds $1,000 in an FBT year (1 April to 31 March), you will be required to record the grossed-up taxable value of those benefits on your employees' payment summary for the corresponding income year (1 July to 30 June). You may also have to report the notional value of certain exempt benefits.

> The Government has announced that from 1 April 2007, the fringe benefits reporting exclusion threshold will increase from $1,000 to $2,000.

5.1 BENEFITS INCLUDED IN THE REPORTING REQUIREMENTS

The value of all fringe benefits other than excluded fringe benefits (see 5.2) must be allocated to the relevant employees.

You must allocate to the relevant employees the notional taxable value of benefits that are exempt solely because an employee works in or for a public benevolent institution, a health promotion charity, a hospital, a public ambulance service and/or is a live-in residential care worker (see 20.5). These benefits are known as **quasi fringe benefits**. The exemption from the requirement to pay FBT in relation to such benefits continues to apply.

Any references in this chapter to 'taxable value' and 'fringe benefits' include 'notional taxable value' and 'quasi fringe benefits' respectively.

The value of benefits exempted by other provisions (see chapter 20) is exempt from these allocation and reporting requirements.

5.2 EXCLUDED FRINGE BENEFITS

Fringe benefits that are excluded from the reporting requirements are still subject to FBT.

You do not have to allocate the following excluded benefits to employees or report them on payment summaries. The benefits are excluded by provisions of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA).

Excluded by subsection 5E(3) of the FBTAA:

- entertainment by way of food and drink, and benefits associated with that entertainment, such as travel and accommodation (regardless of which category is used to value the benefit)
- car parking fringe benefits (not including car parking expense payment benefits – see 9.9)
- hiring or leasing entertainment facilities such as corporate boxes
- remote area residential fuel where the value of the benefit is reduced in accordance with the conditions in 19.2
- remote area housing assistance where the value of the benefit is reduced in accordance with the conditions in 19.2
- remote area home ownership schemes where the value of the benefit is reduced in accordance with the conditions in 19.2
- remote area home repurchase schemes where the value of the benefit is reduced in accordance with the conditions in 19.2
- costs of occasional travel to a major Australian population centre by employees and their families living in a remote area
- freight costs for food provided to employees living in a remote area, and
- fringe benefits provided to address certain security concerns relating to the personal safety of an employee, or an associate of the employee, arising from the employee's employment.

Excluded by regulation pursuant to paragraph 5E(3)(i) of the FBTAA:

- emergency or other essential health care provided to an employee or associate who is an Australian citizen or permanent resident, while the employee is working outside Australia and no Medicare benefit is payable
- certain Australian Government overseas living allowance payments, for example, cost of living adjustment, post adjustment, child supplement, child reunion supplement
- certain benefits provided to Defence Force members, for example, particular forms of housing assistance, reunion travel, assistance provided for removing and storing household effects, allowances paid to families with special needs, education assistance for children in critical years of schooling, elements of overseas living allowances, and removal expenses of a spouse due to marriage breakdown
- certain benefits provided to police officers, for example, particular forms of housing assistance, assistance provided for removing and storing household effects, certain relocation assistance and certain car benefits arising from travel between home and work by police officers using unmarked police vehicles that are fitted with a police radio and concealed or portable warning lights and sirens, and
- certain car benefits arising from travel between home and work by police officers, ambulance officers and fire fighters using marked emergency vehicles.

5.3 INDIVIDUAL FRINGE BENEFITS AMOUNT

You must allocate the value of all benefits subject to these reporting requirements to the relevant employees. The total value of all such benefits provided to a particular employee in an FBT year is known as their **individual fringe benefits amount**.

Where benefits are provided to an associate of an employee, in respect of that employee's employment, you allocate the value to the employee, not to the associate.

5.4 REPORTING AMOUNTS ON PAYMENT SUMMARIES

Where an employee's individual fringe benefits amount is $1,000 or less, you do not have to report an amount on the employee's payment summary.

> The Government has announced that from 1 April 2007, the reporting exclusion threshold will increase from $1,000 to $2,000.

If an employee's individual fringe benefits amount is more than $1,000, you must report the grossed-up value of that amount on the employee's payment summary. This amount is known as a **reportable fringe benefits amount** and is calculated using the following formula.

$$\frac{\text{Individual fringe benefits amount}}{(1 - \text{FBT rate})}$$

The FBT rate is 46.5%. This is the same as multiplying the individual fringe benefits amount by the lower gross-up rate of 1.8692.

Prior to the FBT year 1 April 2006 – 31 March 2007, the FBT rate was 48.5%. The lower gross-up rate was 1.9417. The lower gross-up rate of 1.9417 should be used for reporting on payment summaries for the income year ending 30 June 2006.

> The higher gross-up rate formula is not used to calculate an employee's reportable fringe benefits amount (see 2.11).

EXAMPLE: grossing-up amount for payment summary reporting

The total value of benefits provided to an employee is $1,500. The rate of tax is 46.5%. The value of reportable fringe benefits is calculated as follows:

$$\frac{\$1{,}500}{(1 - 0.465)}$$

$$= \frac{\$1{,}500}{0.535} \text{ (or } \$1{,}500 \times 1.8692\text{)}$$

= $2,803 (in whole dollars)

You show the reportable fringe benefits amount relating to benefits provided during the FBT year (1 April to 31 March) on the relevant employee's payment summary for the corresponding income year. For example, you would show the value relating to benefits provided during the FBT year 1 April 2006 to 31 March 2007 on the employee's payment summary for the income year 1 July 2006 to 30 June 2007.

EXAMPLE: working out amounts for payment summaries

Between 1 April 2006 and 31 March 2007 (the 2006–07 FBT year) you provide an employee with:

- a work car, with a taxable value of car fringe benefits totalling $1440
- holiday accommodation with a taxable value of $600
- a briefcase ($200)
- a mobile phone used mainly for their employment ($300), and
- reimburse their HELP debt as well as their spouse's ($550 each).

The total taxable value of fringe benefits for this employee is $3140. The briefcase and mobile phone are exempt from FBT and the reimbursement of the spouse's HELP debt is allocated to the employee.

The reportable fringe benefits amount would appear on the employees' payment summary for the income year ending 30 June 2007.

Reportable fringe benefits amount = Individual fringe benefits amount × 1.8692

= 3,140 x 1.8692

= 5,869

$5,869 would appear on the employee's payment summary for the income year ending 30 June 2007.

5.5 CONSEQUENCES OF HAVING AN AMOUNT INCLUDED ON A PAYMENT SUMMARY

Even though a reportable fringe benefits amount is included on a payment summary, it is not included in the employee's assessable income. It is, however, included in a number of income tests relating to the following government benefits and obligations.

- Medicare levy surcharge.
- Mature age worker tax offset.
- Deduction for personal superannuation contributions.
- Tax offset for eligible spouse superannuation contributions.
- Super Co-contribution.
- Higher Education Loan Programme (HELP) repayments.
- Child support obligations.
- Entitlement to certain income-tested government benefits.

The reportable fringe benefits amount is also taken into account in the income tests for the family tax benefit and the child care benefit, and for the parental income test for the youth allowance. However, these income tests include only the non-grossed-up value of the fringe benefits. This amount can be calculated by multiplying the reportable fringe benefits total by 0.535.

EXAMPLE: Medicare levy surcharge

An employee has a taxable income of $30,000 and a reportable fringe benefits total of $30,000. The employee's spouse has a taxable income of $60,000 and a reportable fringe benefits total of $10,000. Therefore, the couple's family income is $130,000. They have three dependent children. No-one in the family is covered by private patient hospital insurance.

The couple's family threshold for the surcharge is $103,000 ($100,000 + $1,500 × 2). As their family income ($130,000) exceeds their family surcharge threshold and they are both liable to pay the Medicare levy, the surcharge would apply to both individuals. The amount of surcharge payable by the employee would be $600 (1% of $60,000) and the amount payable by the spouse would be $700 (1% of $70,000).

EXAMPLE: HELP debt

If an employee had a HELP debt of $10,000, a taxable income of $35,000 (including a net rental loss of $2,000) and a total reportable fringe benefits amount of $4,000, they would have to repay $1,640 (4% of $35,000 + $2,000 + $4,000) for the 2006–07 income year.

5.6 EMPLOYEE'S SHARE

An employee's individual fringe benefits amount must include their share of any benefit provided to more than one employee, for example, a pooled car that may be used by a number of employees during the FBT year.

The legislation does not specify what method you must use to allocate the value of the benefit to each employee. It does, however, require you to reasonably allocate the taxable value between the recipient employees, taking into account all relevant factors.

The portion of the taxable value you allocate to each employee must reasonably reflect the amount of the benefit in respect of each employee's employment. In addition, you must allocate the total taxable value of the benefit among the relevant employees.

EXAMPLE: allocating the benefit – holiday package

An employer gives two employees a holiday package as a fringe benefit. The package is for two people and cannot be taken as two single holidays. The taxable value of the package is $5,000.

It would be reasonable for the employer to allocate the taxable value between the employees on a 50-50 split basis. Therefore, each employee's share would be $2,500.

EXAMPLE: allocating the benefit – car fringe benefit

An employer has a car that is used for business purposes and is available for private use by 10 employees, who benefit equally from use of the car. The taxable value of the car fringe benefit, calculated by the statutory formula method, is $4,500.

The employer could calculate each employee's share as:

$$\frac{\text{Total taxable value}}{\text{Number of recipients}}$$

$$= \frac{\$4{,}500}{10}$$

= $450.00

EXAMPLE: allocating the benefit – car overnight rate

Alternatively the employer could allocate the taxable value of the car by allocating an overnight rate for the car. The car is used for home to work travel on 240 days in the year and the taxable value of the car benefit is $4,500.

The employer could calculate each employee's share as:

$$\frac{\$4{,}500}{240}$$

= $18.75 per night.

They would then multiply the number of nights each employee had the car by the overnight rate to determine each employee's share of the taxable value.

5.7 WHAT HAPPENS WHEN AN EMPLOYEE CEASES EMPLOYMENT AND HAS REPORTABLE BENEFITS?

Where an employee ceases employment between 1 April and 30 June in a particular year and you have provided them with reportable benefits since 1 April in that year, you must show the amount of the reportable benefit on a payment summary for that employee for the income year ended 30 June in the following year. This is the case even though you have not paid them salary or wages during that income year.

When an employee ceases employment and has a reportable fringe benefits amount, you do not have to provide them with a payment summary before the standard date of issue (14 July) following the end of the income year covered by that payment summary.

EXAMPLE

An employee ceases employment with a particular employer on 15 May 2006. Between 1 April 2006 and 15 May 2006 the employee was provided with fringe benefits with a reportable value of $3,200. The reportable amount of $3,200 must be reported on a payment summary for the income year ended 30 June 2007. The employer would have until 14 July 2007 to issue the payment summary.

5.8 WHO MUST BE ISSUED WITH PAYMENT SUMMARIES?

Normally, you have to issue payment summaries only to employees receiving salary or wages. For FBT purposes, the definition of 'employee' is extended to include former employees, future employees and those who receive benefits, but no salary or wages, in return for employment type services.

Anyone provided with reportable fringe benefits must be issued with a payment summary, even if they are not paid salary or wages during that income year.

EXAMPLE

As part of his remuneration package, a company manager was granted the use of a company-owned house for life. The manager retired in 1996 and continues to occupy the company house. The market rental value of the house is $10,400 for the FBT year 1 April 2006 to 31 March 2007.

The reportable fringe benefit that must be shown on the payment summary for the income year 1 July 2006 to 30 June 2007 is $19,439, calculated as follows:

$10,400 × 1.8692 = $19,439

5.9 CORRECTING AN AMOUNT ON A PAYMENT SUMMARY ALREADY ISSUED

Where you have inadvertently understated an employee's reportable fringe benefits amount by $195 or less, you do not have to amend the employee's payment summary unless the Commissioner is of the view that you have deliberately understated the amount of fringe benefits provided to the employee.

To correct a reportable fringe benefits amount on a payment summary already issued to an employee, you need to prepare four copies of a letter, stating:

- your name, address and ABN
- details of the correct reportable fringe benefits amount for the employee, and
- an explanation for the changed amount.

Give two copies of the letter to the employee, who should keep one copy for their own records and attach the other copy to their tax return. If the employee has already lodged their tax return, they should request an amendment to their reportable fringe benefits amount and include a copy of your letter with their request.

You should keep one copy of the letter and forward the other copy to your nearest tax office.

If the change alters the amount of your FBT payable, you also need to request an amendment to your FBT return (see 3.4).

5.10 SPECIAL RULE: EMPLOYERS USING THE RECORD KEEPING EXEMPTION ARRANGEMENTS

You may have chosen to lodge FBT returns under the record keeping exemption arrangements (see 4.6). Under these arrangements, your aggregate fringe benefits amount in a base year may form the basis for calculating your FBT liability in a following year. If you use this method of calculation in a following year, you cannot exclude any benefits when allocating the value of benefits to individual employees. You have to allocate the entire aggregate fringe benefits amount from the base year among the employees to whom you provided benefits in that following year.

Your method of allocation must be reasonable, having regard to the fringe benefits provided in that year in respect of each employee's employment.

5.11 RELATIONSHIP WITH EMPLOYEES

As the provision of fringe benefits could affect an employee's obligations and entitlements, you may wish to discuss with employees such issues as:

- which fringe benefits they receive, as some employees may not identify some items as being fringe benefits
- the actual or approximate value of fringe benefits provided (employees may not be aware of fringe benefits valuation rules), and
- the method used to reasonably apportion the value of shared benefits. Where you and your employees can agree on a suitable method, this may reduce the need for detailed record keeping.

In some cases, an employee may wish to reduce the reportable fringe benefits amount shown on their payment summary for future years. Where you and the employee agree, the following options may be considered:

- replacing fringe benefits with cash salary
- providing benefits that are exempt from FBT
- providing benefits that the employee would otherwise have been able to claim as an income tax deduction, and
- making employee contributions to reduce the taxable value of a fringe benefit.

The contributions must be made from an employee's after-tax income, and employee contributions towards a particular benefit cannot be applied to reduce the taxable value of any other fringe benefit.

MORE INFORMATION

- Law Administration Practice Statement PS LA 2002/7 – Amendment of an employer's fringe benefits tax assessment which requires an adjustment to a previously advised reportable fringe benefits amount.
- *Reportable fringe benefits – facts for employees* (NAT 2836).

6 NON-PROFIT ORGANISATIONS AND FBT

Depending on your type of organisation, certain benefits you provide to employees may receive concessional FBT treatment. This chapter provides a summary of those FBT concessions and explains how to calculate whether your organisation has an FBT liability.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

If your organisation provides a fringe benefit to its employees or to associates of its employees, your organisation may have a fringe benefits tax (FBT) liability. Depending on your type of organisation, certain benefits you provide to employees receive concessional FBT treatment. From 1 July 2005, charities that want to access FBT concessions must be endorsed by the Tax Office.

6.1 EMPLOYEES, VOLUNTEERS OR CONTRACTORS

It is important to determine whether an individual is an employee, volunteer or, contractor of your organisation. This status may affect the tax treatment between the individual and the organisation. You should always consider the facts and circumstances of each individual when determining whether they are an employee, volunteer or independent contractor.

For the purposes of FBT, an employee is a person who receives (or is entitled to receive) salary or wages, or a benefit that has been provided in respect of their employment. A volunteer is not paid for work. Reimbursing a volunteer for out-of-pocket expenses does not cause them to become an employee. Generally, benefits provided to volunteers do not attract FBT. If an organisation provides non-cash benefits to workers in lieu of salary and wages, FBT can apply.

6.2 FBT CONCESSIONS AND ENDORSEMENT

Few tax concessions apply to all organisations in the non-profit sector – they tend to apply to particular types of non-profit organisation.

Charities that are not currently endorsed as income tax exempt charities and that want to access charity tax concessions will need to apply for endorsement using the *Application for endorsement as a tax concession charity* (NAT 10651). These charities can indicate on their application form that they want to be endorsed for some concessions and not others. An endorsed charity's details are recorded on the Australian Business Register at **www.abr.business.gov.au** so that the charity's endorsement for tax concessions can be viewed by the public.

The following table provides a summary of FBT concessions available to various groups of non-profit organisations.

Type of organisation, entity or employer	FBT concessions	Endorsement required? Yes/No
Charitable funds **refer to page 38**	**No FBT concessions available** From 1 July 2005, charitable funds are no longer considered to be rebatable employers and are no longer entitled to the FBT rebate.	No
Charitable institutions **refer to page 38**	**FBT rebate (subject to a capping threshold of $30,000)** Qualifying employers are entitled to have their liability reduced by a rebate equal to **48%** of the gross FBT payable (subject to a $30,000 capping). If the total grossed-up taxable value of benefits is more than $30,000 a rebate cannot be claimed for the FBT liability on the excess amount (or on the **aggregate non-rebatable amount**).	Yes
Public benevolent institution (PBI) (other than public hospitals) **refer page 39** Health promotion charities **refer page 40**	**FBT exemption (subject to a capping threshold of $30,000)** As a PBI or Health promotion charity, benefits you provide to your employees are exempt from FBT where the total grossed-up value of certain fringe benefits for each employee during the FBT year is **$30,000** or less. If your employees receive grossed-up benefits above this threshold you are liable for FBT on the excess (or the **aggregate non-exempt amount**).	Yes
Public hospitals **refer page 40** Non-profit hospitals **refer page 40** Public ambulance service	**FBT exemption (subject to a capping threshold of $17,000)** Benefits provided by public and non-profit hospitals and public ambulance services are **exempt** from FBT if the total grossed-up taxable value of certain fringe benefits provided to each employee is **$17,000** or less. If your employees receive grossed-up benefits above this threshold, you are liable for FBT on the excess (or the **aggregate non-exempt amount**). Note: The $17,000 capping threshold will apply regardless of whether the organisation is also a PBI.	No
Certain non-government and non-profit organisations – also referred to as 'rebatable employers' eg public education institutions; employer associations **refer page 40**	**FBT rebate (subject to a capping threshold of $30,000)** Qualifying employers are entitled to have their liability reduced by a rebate equal to 48% of the gross FBT payable (subject to a $30,000 capping). If the total grossed-up taxable value of benefits is more than $30,000 a rebate cannot be claimed for the FBT liability on the excess amount (or on the **aggregate non-rebatable amount**).	Yes
Religious institutions **refer page 40**	**FBT rebate (subject to a capping threshold of $30,000)** In addition, religious practitioners and certain employees of religious institutions may be entitled to other types of concessions as explained at **20.5**.	For those that are charities – Yes For those that are **not** charities – No
Non-profit company **refer page 41**	**No FBT concessions available** If your activities include caring for elderly or disadvantaged people, you can provide exempt benefits to live-in carers. The condition for exemption is the same as for religious institutions as explained at **20.5**.	No

6.3 BENEFITS EXCLUDED FROM FBT CAPPING MEASURES

The following fringe benefits, which are excluded benefits for reporting purposes, are also specifically excluded from an employee's individual fringe benefits amount and as such are not included in the calculation for certain employer's respective capping thresholds.

Meal entertainment

The provision of benefits that constitute the provision of meal entertainment when provided by PBIs, health promotion charities, public hospitals, non-profit hospitals and public ambulance services.

Entertainment facility leasing expenses

Entertainment facility leasing expenses when incurred by PBIs, health promotion charities, public hospitals, non-profit hospitals and public ambulance services.

Car parking

Car parking fringe benefits when provided by PBIs, health promotion charities, public hospitals, non-profit hospitals and public ambulance services.

6.4 EXPLANATION OF TERMS

Charity tax concessions

Charities are required to be endorsed by the Tax Office to access the following concessions:

- income tax exemption
- GST charity concessions
- FBT rebate (subject to $30,000 capping threshold), and
- FBT exemption (subject to either the $17,000 or $30,000 capping thresholds).

Charity

A charity is an entity established for altruistic purposes that the law regards as charitable. The Tax Office does not set the criteria to decide whether or not an organisation is a charity. Criteria for deciding what is a charity have been established by case law.

Charities include most religious institutions, aged persons' homes, homeless hostels, organisations relieving the special needs of people with disabilities and societies that promote the fine arts.

The characteristics of a charity are:

- it is an entity that is also a trust fund or an institution
- it exists for the public benefit or the relief of poverty
- its purposes are charitable within the legal sense of that term
- it is non-profit, and
- its sole or dominant purpose is charitable.

A charitable purpose is one which the law regards as charitable. Charitable purposes are any of the following purposes:

- the relief of poverty or sickness or the needs of the aged
- the advancement of education
- the advancement of religion
- other purposes beneficial to the community, and
- the provision of child care services on a non-profit basis.

A statutory extension to the meaning of charity applies from 1 July 2004. The provision of child care services on a non-profit basis is accepted as a charitable purpose from this date.

Many community organisations are not charities. An entity is not a charity if:

- it is primarily for sporting, recreational or social purposes, or
- it is primarily for political, lobbying or promotional purposes.

Government departments and instrumentalities carrying out the ordinary functions of government are unlikely to be charities.

Charitable fund

To be this entity type, your organisation must be a charity.

A charitable fund is a fund established under an instrument of trust or a will for a charitable purpose. The purposes set out in the will or instrument of trust must be charitable. Charitable funds mainly manage trust property, and/or hold trust property to make distributions to other entities or people. In contrast, if the trustee mainly carries on activities that are charitable, the fund will be treated as a charitable institution and not as a charitable fund.

Charitable institution

To be this entity type, your organisation must be a charity.

A charitable institution is an establishment, organisation or association that is instituted and operated to advance or promote a charitable purpose. An organisation's purposes can be found in its governing document/s and from its activities, history and control. A charitable institution will carry on charitable activities while a charitable fund mainly manages, and/or holds trust property.

Public benevolent institution

A public benevolent institution (PBI) is a non-profit institution organised for the direct relief of poverty, sickness, suffering, distress, misfortune, disability or helplessness. The characteristics of a PBI are:

- it is set up for needs that require benevolent relief
- it relieves those needs by directly providing services to people suffering from them
- it is carried on for the public benefit
- it is non-profit
- it is an institution, and
- its dominant purpose is providing benevolent relief.

Organisations that may be PBIs include:

- hostels for the homeless
- disability support services
- hospitals and medical clinics
- disaster relief organisations, and
- refugee relief centres.

A PBI is distinct from a charitable institution. An institution with charitable activities, but not having as its principal objects the relief of poverty, sickness, suffering, distress, misfortune, destitution or helplessness, is not a PBI. A charitable institution may qualify as either a rebatable employer for FBT purposes or as exempt from FBT if it is a health promotion charity.

To access the FBT exemption, the PBI must be the employer of an employee. It is not enough that part of an entity is a PBI – the PBI must be the relevant employer.

EXAMPLE 1: PBI employer is separate entity

A church has set up Green Care to provide low rental accommodation to people affected by misfortune, disability and destitution. An unincorporated association, Green Care has its own board of management and administrative structure separate from the church. It directly employs the staff working for it and has its own ABN.

Green Care is a PBI and is the employer of the staff working for it.

Green Care is able to seek endorsement in its own right.

EXAMPLE 2: PBI employer is not separate entity

A church has set up, as part of its operations, Yellow Care, a public benevolent institution, to provide low rental accommodation to people affected by misfortune, disability and destitution. While operated by the church according to the church's authoritative structure, Yellow Care has its own management and directly engages the staff working for it under employment contracts. Under the terms of the employment contracts, Yellow Care is liable to pay the salary and wages of its staff. However, it is the church that pays the salary and wages of Yellow Care staff. Yellow Care is not an entity in its own right and has no ABN.

It is Yellow Care that employs the staff working for it and is liable to pay salary and wages to those employees under the terms of the employment contract. The fact that the church makes those salary and wage payments to Yellow Care's employees will not result in Yellow Care losing its employer status. Such payments by the church are still in respect of the employment of those employees by Yellow Care.

As Yellow Care is not an entity, it cannot seek PBI endorsement in its own right. However, the church can seek PBI endorsement on the basis of operating Yellow Care. This would be allowed as Yellow Care is both a PBI and an employer and the church, provided it exercises its rights within its authoritative structure, maintains necessary control of the operation of Yellow Care.

Note: The FBT exemption for a PBI employer that an organisation operates does not apply in respect of the organisation's employees generally. It only applies in respect of the employees of the PBI employer itself and is subject to a $30,000 cap per employee. The FBT exemption for a PBI employer would only be available in respect of the employees of Yellow Care.

EXAMPLE 3: PBI is not employer

A church has set up, as part of its operations, Red Care, a public benevolent institution, to provide low rental accommodation to people affected by misfortune, disability and destitution. Red Care is part of the church's overall management and administrative structure and does not act as employer. Red Care is not an entity in its own right and has no ABN. Staff working for Red Care have been engaged by the church as employees and assigned by the church to work for Red Care.

In this case the church is the relevant employer as it has engaged the staff as common law employees. Although the staff have been assigned to work for Red Care, there is not contractual relationship between Red Care and the staff. The staff have only entered into an employment contract with the church and Red Care.

As Red Care is not the relevant employer, the church cannot seek endorsement on the basis of operating a PBI employer.

Health promotion charity

A health promotion charity is a non-profit charitable institution whose principal activity is promoting the prevention or control of diseases in human beings. The characteristics of a health promotion charity are that:

- its principal activity is promoting the prevention or control of diseases in human beings, and
- it is a charity which is a charitable institution.

Examples of activities that can promote the prevention or control of diseases include:

- providing relevant information to sufferers of a disease, health professionals, carers and the public
- researching how to detect, prevent or treat diseases, and
- developing or providing relevant aids and equipment to sufferers of a disease.

Hospitals (public and non-profit)

A hospital is an institution in which patients are received for continuous medical care and treatment for sickness, disease or injury. The provision of accommodation is integral to a hospital's care and treatment.

Clinics that mainly treat ambulatory patients who return to their homes after each visit are not hospitals. However, day surgeries that provide beds for patients to recover after surgery may be hospitals.

Homes to provide nursing care for feeding, cleanliness and the like are not hospitals. However, nursing homes for people suffering from illness are accepted as hospitals.

Hospices for the terminally ill will generally be hospitals. Minor outpatient and nursing care will not prevent an institution being a hospital.

Non-profit hospitals include those run by churches and religious orders.

Rebatable employer

Rebatable employers are certain non-government, non-profit organisations. Those that qualify for an FBT rebate include:

- certain religious, educational, charitable, scientific or public educational institutions
- trade unions and employer associations
- non-profit organisations established to encourage music, art, literature or science
- non-profit organisations established to encourage or promote a game, sport or animal races
- non-profit organisations established for community service purposes
- non-profit organisations established to promote the development of aviation or tourism
- non-profit organisations established to promote the development of Australian information and communications technology resources, and
- non-profit organisations established to promote the development of the agricultural, pastoral, horticultural, viticultural, aquacultural, fishing, manufacturing or industrial resources of Australia.

Religious institution

Your organisation will be a religious institution if it is an establishment, organisation or association that is instituted to advance or promote religious purposes.

An institution may have the legal structure of an unincorporated association or a corporation. However, incorporation is not enough, on its own, for an organisation to be an institution. Its activities, size, permanence and recognition will be relevant.

An organisation that is established, controlled and operated by family members and friends would not normally be an institution.

EXAMPLE

A corporation is set up and controlled by a family. Its object is to spread the gospel. The only activities are holding assets and arranging for the father of the family to speak at churches on some Sundays.

The corporation is not an institution.

An institution will be a religious institution if:

- its objects and activities reflect its character as a body instituted for the promotion of some religious object, and
- the beliefs and practices of the members constitute a religion.

The term 'religion' is not confined to major religions such as Christianity, Islam, Judaism, but also extends to Buddhism, Taoism, Jehovah's Witness, the Free Daist Communion of Australia and Scientology. The categories of religion are not closed. Nonetheless, to be a religion there must be:

- belief in a supernatural being, thing or principle, and
- acceptance of canons of conduct that give effect to that belief, but that do not offend against the ordinary laws.

Religious practitioner

A religious practitioner is someone who is:

- a minister of religion
- a student at an institution who is undertaking a course of instruction in the duties of a minister of religion
- a full-time member of a religious order, or
- a student at a college conducted solely for training people to become a member of a religious order.

Non-profit company

For your organisation to be a non-profit company:

- it must be a company that is not carried on for the purposes of profit or gain to its individual members, and
- its constituent documents must prohibit it from making any distribution, whether in money, property or otherwise, to its members.

Your organisation can be a non-profit company and still make a profit. However, any profits it makes must be used to carry out its purposes. The profits must not be distributed to the members.

The prohibition on distributions applies while the organisation is operating and on its winding up. If it permits the organisation's members to transfer the assets to themselves on winding up, it is not a non-profit company.

A non-profit company can make payments to its members as bona fide remuneration for services they have provided to it, and as reasonable compensation for expenses incurred on behalf of the organisation.

Organisations carried on for the joint or common benefit of their members can qualify as non-profit companies. An example would be a professional association established to advance the professional interests of its members.

6.5 CALCULATING THE FBT EXEMPTION

Where your organisation (PBI, health promotion charity, public or non-profit hospital or public ambulance service) provides employees with benefits above the FBT exemption capping (either $30,000 or $17,000), you are subject to FBT on the aggregate non-exempt amount.

> The Tax Office has designed a web-based calculator to assist you in calculating your fringe benefits tax liability for PBI's, health promotion charities and rebatable employers. The $30,000 capping threshold only has been considered in this application. If you do not have access to the web based calculators, the steps below will help you calculate your FBT payable.

In order to calculate your FBT payable, you must first calculate the **individual grossed-up type 1** and **type 2 non-exempt amounts**.

TABLE 1: Calculating the individual grossed-up type 1 and 2 non-exempt amounts

Step	Action	Result
1	Establish what the employee's individual fringe benefits amount would be if the capping concession was not available. The individual fringe benefits amount is the value of all benefits other than excluded benefits. See chapter 5 for a list of excluded fringe benefits.	**$xxx**
2	Identify the amount of GST-creditable fringe benefits included in the amount for step 1.	**$xxx (Amount 1)**
3	Identify those fringe benefits not taken into account under amount 1 *(that is, the result from step 1 minus the result for step 2).*	**$xxx (Amount 3)**
4	Determine the employee's share of the benefits that would be excluded fringe benefits if the capping concession was not available. See chapter 5 for a list of excluded fringe benefits. **Excluded benefits specifically not to be included in this calculation are listed in 6.3.**	**$xxx**
5	Identify the GST-creditable fringe benefits included in step 4.	**$xxx (Amount 2)**

Step	Action	Result
6	Identify those excluded fringe benefits that are not taken into account under amount 2 *(that is, the result from step 4 minus the result from step 5).*	**$xxx (Amount 4)**
7	Add amount 1 and amount 2 *(that is, the result from step 2 plus the result from step 5).*	**Type 1 individual base non-exempt amount**
8	Use the following formula: $\text{Type 1 individual base non-exempt amount} \times \frac{\text{FBT rate + GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times \text{FBT rate}}$ *(that is, the result from step 7 × 2.0647).*	**Individual grossed-up type 1 non-exempt amount**
9	Add amount 3 and amount 4 *(that is, the result from step 3 plus the result from step 6).*	**Type 2 individual base non-exempt amount**
10	Use the following formula: $\text{Type 2 individual base non-exempt amount} \times \frac{1}{1 - \text{FBT rate}}$ *(that is, the result from step 9 × 1.8692).*	**Individual grossed-up type 2 non-exempt amount**

After calculating the **individual grossed-up type 1** and **type 2 amounts**, follow the steps in table 2 to calculate your **FBT payable**.

TABLE 2: Calculating your FBT payable

Step	Action	Result
1	For each employee *add*: ■ the individual grossed-up type 1 non-exempt amount (from table 1, step 8), and ■ the individual grossed-up type 2 non-exempt amount (from table 1, step 10).	The result is the **individual grossed-up non-exempt amount**.
2	*Subtract* the appropriate capping threshold from the **individual grossed-up non-exempt amount** for each employee. Capping thresholds $30,000 for PBIs and Health promotion charities; $17,000 for public and non-profit hospitals and public ambulance services)	If the individual grossed-up non-exempt amount is less than or equal to the appropriate capping threshold ($30,000 or $17,000), the amount calculated under this step is **nil**.
3	*Add* together all the amounts calculated under step 2 for each employee.	The total is your **aggregate non-exempt amount**.
4	*Multiply* the result in step 3 by the FBT rate (currently 46.5%).	The result is your **FBT payable**.

EXAMPLE: FBT exemption capping threshold exceeded

An employee of a health promotion charity receives the following benefits during a FBT year:

■ Car fringe benefit	$7,700	(GST taxable supply with an entitlement to GST credits)
■ Restaurant meals	$1,100	(Valued as expense payment fringe benefits. Excluded fringe benefit with an entitlement to GST credits)
■ Reimbursement of school fees	$6,000	(Expense payment fringe benefit. GST-free supplies with no entitlement to GST credits)
■ Remote area rent reimbursement	$3,000	(Excluded fringe benefit for payment summary reporting purposes only. No entitlement to GST credits.)

In order to calculate their FBT payable, the health promotion charity must first calculate the **individual grossed-up type 1** and **type 2 non-exempt amounts**.

TABLE 1: Calculating the individual grossed-up type 1 and 2 non-exempt amounts

Step	Action	Result
1	Establish what the employee's individual fringe benefits amount would be if the capping concession was not available. The individual fringe benefits amount is the value of all benefits other than excluded fringe benefits.	**The individual fringe benefits amount =** Car fringe benefit + Reimbursement of school fees. $7,700 + $6,000 = **$13,700**. The **individual fringe benefits amount** is **$13,700**.
2	Identify the amount of GST-creditable fringe benefits included in the amount for step 1.	**$7,700 (Amount 1)** In this example, the employer is entitled to GST credits for the car fringe benefit.
3	Identify those fringe benefits not taken into account under amount 1 *(that is, the result from step 1 minus the result from step 2).*	$13,700 – $7,700 = **$6,000 (Amount 3)**
4	Determine the employee's share of the benefits that would be excluded fringe benefits if the capping concession was not available. These excluded fringe benefits are listed in chapter 5. **Excluded benefits specifically not to be included in this calculation are listed in 6.3**.	**$3,000** The excluded fringe benefits are the restaurant meals fringe benefit and the remote area rent reimbursement. The restaurant meals fringe benefit of $1100 is specifically not included in this calculation.

Step	Action	Result
5	Identify the GST-creditable fringe benefits included in step 4	**$0 (Amount 2)** The employer is not entitled to GST credits for the remote area rent reimbursement.
6	Identify those excluded fringe benefits that are not taken into account under amount 2 *(that is, the result from step 4 minus the result from step 5).*	$3,000 – $0 = **$3,000 (Amount 4)**
7	Add amount 1 & amount 2 *(that is, the result from step 2 plus the result from step 5).*	$7,700 + $0 = **$7,700**. The **type 1 individual base non-exempt amount** is **$7,700**.
8	Use the following formula: $$\text{Type 1 individual base non-exempt amount} \times \frac{\text{FBT rate} + \text{GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times \text{FBT rate}}$$ *(that is, the result from step 7 × 2.0647).*	$7,700 × 2.0647 = **$15,898** (rounded to the nearest dollar). The **individual grossed-up type 1 non-exempt amount** is **$15,898**.
9	Add amount 3 & amount 4 *(that is, the result from step 3 plus the result from step 6).*	$6,000 + $3,000 = **$9,000** The **type 2 individual base non-exempt amount** is **$9,000**.
10	Use the following formula: $$\text{Type 2 individual base non-exempt amount} \times \frac{1}{1 - \text{FBT rate}}$$ *(that is, the result from step 9 × 1.8692).*	$9,000 × 1.8692 = **$16,822** (rounded to the nearest dollar). The **individual grossed-up type 2 non-exempt amount** is **$16,822**.

After calculating the individual grossed-up type 1 and type 2 amounts, the health promotion charity will calculate their FBT payable by following the steps in table 2.

TABLE 2: Calculating the FBT payable

Step	Action	Result
1	For each employee *add*: ■ the individual grossed-up type 1 non-exempt amount (from table 1, step 8), and ■ the individual grossed-up type 2 non-exempt amount (from table 1, step 10, above).	$15,898 + $16,822 = $32,720. The **individual grossed-up non-exempt amount** is **$32,720**.
2	*Subtract* the appropriate capping threshold from the **individual grossed-up non-exempt amount** for each employee. Capping thresholds: ■ $30,000 for PBIs and HPCs ■ $17,000 for public and non-profit hospitals and public ambulance services *(that is, the result from step 1 minus the applicable capping threshold).*	$32,720 – $30,000 = **$2,720**.
3	*Add* together all the amounts calculated under step 2 for each employee.	As there is only one employee, the result is the same as for step 2, ie $2,720. The **aggregate non-exempt amount** is **$2,720**.
4	*Multiply* the result in step 3 by the FBT rate (currently 46.5%).	$2,720 × 46.5% = $1,264.80. The **FBT payable by the health promotion charity** is **$1,264.80**.

6.6 CALCULATING THE FBT REBATE

Charitable institutions and most non-government organisations that are income tax exempt, qualify for an FBT rebate. As a rebatable employer, you are eligible for a rebate of 48% of the amount of FBT that would otherwise be payable.

The maximum grossed-up value of benefits that can be provided to an employee, without losing the concession, is $30,000. The $30,000 capping threshold applies even if you did not employ the employee for the full FBT year. For example, if the total grossed-up value of the benefits you provide to an employee between October and March is $15,000, a rebate applies to all of the FBT payable for providing these benefits.

If the total grossed-up value of the fringe benefits provided to an individual employee is more than $30,000, a rebate cannot be claimed for the FBT liability on the excess amount.

Use the following formula to calculate the rebate available to you:

$$0.48 \times (\text{gross tax} - \text{aggregate non-rebatable amount}) \times \frac{\text{rebatable days in year}}{\text{total days in year}}$$

Gross tax is the FBT you would have paid if you had not been entitled to claim a rebate.

Rebatable days in the year are the number of days during the FBT year that you qualified as a rebatable employer.

For the purpose of calculating the rebate, the **total days in the year** are the number of days you were an employer.

The **aggregate non-rebatable amount** is the proportion of the taxable value of fringe benefits for which you cannot obtain a rebate.

The Tax Office has designed a web-based calculator to assist you in calculating your fringe benefits tax liability for PBI's, health promotion charities and rebatable employers. The $30,000 capping threshold only has been considered in this application. If you do not have access to the web based calculators, the steps below will help you calculate your FBT payable.

To calculate your FBT payable, you need to first calculate your gross tax (see table 1, following).

TABLE 1: Calculating your gross tax

Follow the steps below to calculate your gross tax.

Step	Action	Result
1	Establish the employee's individual fringe benefits amount. The individual fringe benefits amount is the value of all benefits other than excluded benefits. See chapter 5 for a list of excluded fringe benefits.	**$xxx**
2	Identify the amount of GST-creditable fringe benefits included in the amount for step 1.	**$xxx (Amount 1)**
3	Identify those fringe benefits not taken into account in the calculation for amount 1 *(that is, the result from step 1 minus the result from step 2)*.	**$xxx (Amount 3)**
4	Determine the employee's share of the benefits that would be excluded fringe benefits. These excluded fringe benefits are listed in chapter 5.	**$xxx**
5	Identify the GST-creditable fringe benefits included in step 4.	**$xxx (Amount 2)**
6	Identify those excluded fringe benefits that are not taken into account under amount 2 *(that is, the result from step 4 minus the result from step 5).*	**$xxx (Amount 4)**
7	Add amount 1 & amount 2 *(that is, the result from step 2 plus the result from step 5).*	**Type 1 individual fringe benefits taxable amount**
8	Use the following formula: $\text{Type 1 individual fringe benefits amount} \times \frac{\text{FBT rate + GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times \text{FBT rate}}$ *(that is, the result from step 7 × 2.0647).*	**Individual grossed-up type 1 fringe benefits taxable amount**
9	Add amount 3 & amount 4 *(that is, the result from step 3 plus the result from step 6).*	**Type 2 individual fringe benefits taxable amount**
10	Use the following formula: $\text{Type 2 individual fringe benefits amount} \times \frac{1}{1 - \text{FBT rate}}$ *(that is, the result from step 9 × 1.8692).*	**Individual grossed-up type 2 fringe benefits amount**
11	For each employee add: ■ the individual grossed-up type 1 fringe benefits amount, and ■ the individual grossed-up type 2 fringe benefits amount. *(that is, the result from step 8 plus the result from step 10).*	**Individual fringe benefits taxable amount**
12	Add together the individual fringe benefits taxable amount calculated for every employee *(that is, the result from step 11 for every employee)*.	**Total fringe benefits taxable amount**
13	Multiply the total fringe benefits taxable amount by the FBT rate *(that is, the result from step 12 × 46.5%).*	**Gross tax**

You need to then calculate your FBT rebate (see table 2, following).

TABLE 2: Calculating your FBT rebate

Follow the steps below to calculate your FBT rebate.

If you do not provide the following excluded benefits:
- benefits that constitute the provision of meal entertainment
- benefits that would be a car parking fringe benefit, and
- benefits attributable to entertainment facility leasing expenses,

enter the same amount calculated at step 11 for table 1, into step 11 for table 2 below. Complete steps 12–15, then move on to table 3.

Otherwise you will need to start at step 1. Although these excluded fringe benefits are included in the calculation of the amount of FBT to be paid by the employer, they are excluded from the calculation of the amount to be reported on the employee's payment summary and for the FBT rebate capping threshold of $30,000.

Step	Action	Result
1	Establish the employee's individual fringe benefits amount The individual fringe benefits amount is the value of all benefits other than excluded benefits. See chapter 5 for a list of excluded fringe benefits. *(This will be the same amount calculated in table 1, step 1).*	**$xxx**
2	Identify the amount of GST-creditable fringe benefits included in the amount for step 1. *(This will be the same amount calculated in table 1, step 2).*	**$xxx (Amount 1)**
3	Identify those fringe benefits not taken into account in the calculation for step 2 *(that is, the result for step 1 minus the result for step 2).* *(This will be the same amount calculated in table 1, step 3).*	**$xxx (Amount 3)**
4	Determine the employee's share of the benefits that would be excluded fringe benefits. These excluded fringe benefits are listed in chapter 5) **Excluded benefits specifically not to be included in this calculation are listed in 6.3**.	**$xxx**
5	Identify the GST-creditable fringe benefits included in step 4.	**$xxx (Amount 2)**
6	Identify those excluded fringe benefits that are not taken into account under step 5 *(that is, the result from step 4 minus the result from step 5).*	**$xxx (Amount 4)**
7	Add amount 1 and amount 2 *(that is, the result from step 2 plus the result from step 5).*	**Type 1 individual base non-rebatable amount**
8	Use the following formula: $\text{Type 1 individual base non-rebatable amount} \times \frac{\text{FBT rate + GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times \text{FBT rate}}$ *(that is, the result from step 7 × 2.0647).*	**Individual grossed-up type 1 non-rebatable amount**
9	Add amount 3 & amount 4 *(that is, the result from step 3 plus the result from step 6).*	**Type 2 individual base non-rebatable amount**

Step	Action	Result
10	Use the following formula: Type 2 individual base non-rebatable amount × $\frac{1}{1 - \text{FBT rate}}$ *(that is, the result from step 9 × 1.8692).*	**Individual grossed-up type 2 non-rebatable amount**
11	For each employee add: ■ the individual grossed-up type 1 non-rebatable amount for the FBT year *(that is, the result from step 8)*, and ■ the individual grossed-up type 2 non-rebatable amount for the FBT year *(that is, the result from step 10)*.	**The result is the individual grossed-up non-rebatable amount for the employee.**
12	Subtract $30,000 from the individual grossed-up non-rebatable amount for each employee. *(that is, the result for step 11 – $30,000).*	If the individual grossed-up non-rebatable amount for an employee is equal to or less than $30,000, the amount calculated under this step is nil.
13	Add together the amounts calculated at step 12 for each employee.	**$xxx**
14	Multiply the total amount calculated at step 13 by the FBT rate.	The result is your **aggregate non-rebatable amount** for the FBT year.
15	Use this formula: 0.48 × (gross tax – aggregate non-rebatable amount) × (number of days in the FBT year you were a rebatable organisation ÷ total days in FBT year). that is: 0.48 × (table 1, step 13 – table 2, step 14) × $\frac{\text{rebatable days in year}}{\text{total days in year}}$	The result is your **FBT rebate**.

You then need to calculate your FBT payable (see table 3, following).

TABLE 3: Calculating your FBT payable

Use the following step to calculate your FBT payable.

Step	Action	Result
1	Gross tax – FBT rebate *(that is, the result from table 1, step 13) minus (the result from table 2, step 15).*	The result is your **FBT payable**.

EXAMPLE: FBT rebate capping threshold exceeded

A rebatable employer provides the following benefits to a single employee during the FBT year. The employer was a rebatable employer for the full FBT year.

■ Car fringe benefit	$7,700	GST taxable supply with an entitlement to GST credits
■ Restaurant meals	$1,100	Valued as expense payment. Excluded fringe benefit with an entitlement to GST credits.
■ Reimbursement of school fees	$6,000	Expense payment fringe benefit. GST-free supply with no entitlement to GST credits.
■ Remote area rent reimbursement	$3,000	Excluded fringe benefit for payment summary reporting purposes only. No entitlement to GST credits.

To calculate their FBT payable, the rebatable organisation needs to first calculate their gross tax (see table 1, following).

TABLE 1: Calculating the gross tax

Step	Action	Result
1	Establish the employee's individual fringe benefits amount. The individual fringe benefits amount is the value of all benefits other than excluded benefits.	The **individual fringe benefits amount =** Car fringe benefit + reimbursement of school fees $7,700 + $6,000 = $13,700. The **individual fringe benefits amount** is **$13,700**.
2	Identify the amount of GST-creditable fringe benefits included in the amount for step 1.	**$7,700 (Amount 1)** In this example, the employer is entitled to GST credits for the car fringe benefit.
3	Identify those fringe benefits not taken into account in the calculation for amount 1 *(that is, the result from step 1 minus the result from step 2)*.	$13,700 – $7,700 = **$6,000 (Amount 3)**
4	Determine the employee's share of the benefits that would be excluded fringe benefits. These excluded fringe benefits are listed in chapter 5.	$1,100 + $3,000 = **$4,100** The excluded fringe benefits are the restaurant meals and the remote area rent reimbursement.

Step	Action	Result
5	Identify the GST-creditable fringe benefits included in step 4.	**$1,100 (Amount 2)** In this example, the employer is entitled to GST credits on the restaurant meals.
6	Identify those excluded fringe benefits that are not taken into account under amount 2 *(that is, the result from step 4 minus the result from step 5).*	$4,100 – $1,100 = **$3,000 (Amount 4)**
7	Add amount 1 & amount 2 *(that is, the result from step 2 plus the result from step 5).*	$7,700 + $1,100 = **$8,800** The **type 1 individual fringe benefits taxable amount** is **$8,800**.
8	Use the following formula: Type 1 individual fringe benefits amount × $\frac{\text{FBT rate + GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times \text{FBT rate}}$ *(that is, the result from step 7 × 2.0647).*	$8,800 × 2.0647 = **$18,169** (rounded to the nearest dollar) The **individual grossed-up type 1 fringe benefits taxable amount** is **$18,169**.
9	Add amount 3 & amount 4 *(that is, the result from step 3 plus the result from step 6).*	$6,000 + $3,000 = **$9,000** The **type 2 individual fringe benefits taxable amount** is **$9,000**.
10	Use the following formula: Type 2 individual fringe benefits amount × $\frac{1}{1 - \text{FBT rate}}$ *(that is, the result from step 9 × 1.8692).*	$9,000 × 1.8692 = **$16,822** (rounded to the nearest dollar) The **individual grossed-up type 2 fringe benefits amount** is **$16,822**.
11	For each employee add: ■ the individual grossed-up type 1 fringe benefits amount, and ■ the individual grossed-up type 2 fringe benefits amount. *(that is, the result from step 8 plus the result from step 10).*	$18,169 + $16,822 = **$34,991**. The **individual fringe benefits taxable amount** is **$34,991**.
12	Add together the individual fringe benefits taxable amount calculated for every employee *(that is, the result from step 11 for every employee)*.	There is only one employee, so the **total fringe benefits taxable amount** is **$34,991**.
13	Multiply the total fringe benefits taxable amount by the FBT rate *(that is, the result from step 12 × 46.5%).*	$34,991 × 0.465 = **$16,270.81** The **gross tax** is **$16,270.81**.

The rebatable organisation then needs to calculate their FBT rebate (see table 2, following).

TABLE 2: Calculating your FBT rebate

If you do not provide the following excluded benefits:
- benefits that constitute the provision of meal entertainment
- benefits that would be a car parking fringe benefit, and
- benefits attributable to entertainment facility leasing expenses,

enter the same amount calculated at table 1, step 11 into step 11 following. Complete steps 12–15, then move on to table 3.

Otherwise you will need to start at step 1. Although these excluded fringe benefits are included in the calculation of the amount of FBT to be paid by the employer they are excluded from the calculation of the amount to be reported on the employee's payment summary and for the FBT rebate capping threshold of $30,000.

Step	Action	Result
1	Establish the employee's individual fringe benefits amount The individual fringe benefits amount is the value of all benefits other than excluded benefits. *(This will be the same amount calculated in table 1, step 1).*	**$13,700** (From table 1, step 1)
2	Identify the amount of GST-creditable fringe benefits included in the amount for step 1. *(This will be the same amount calculated in table 1, step 2).*	**$7,700 (Amount 1)** (From table 1, step 2)
3	Identify those fringe benefits not taken into account in the calculation for step 2 *(that is, the result from step 1 minus the result from step 2).* *(This will be the same amount calculated in table 1, step 3).*	**$6,000 (Amount 3)** (From table 1, step 3)
4	Determine the employee's share of the benefits that would be excluded fringe benefits. These excluded fringe benefits are listed in chapter 5. Benefits specifically not included in this calculation are: - benefits that constitute the provision of meal entertainment - benefits that would be a car parking fringe benefit, and - benefits attributable to entertainment facility leasing expenses.	**$3,000** (The $3,000 is the remote area rent reimbursement. The restaurant meals of $1100 are specifically not included here).
5	Identify the GST-creditable fringe benefits included in step 4	**$0 (Amount 2)** (The employer is not entitled to GST credits for the remote area rent reimbursement).
6	Identify those excluded fringe benefits that are not taken into account under step 5 *(that is, the result from step 4 minus the result from step 5).*	$3,000 – $0 = **$3,000 (Amount 4)**
7	Add amount 1 and amount 2 *(that is, the result from step 2 plus the result from step 5).*	$7,700 + $0 = **$7,700** The **type 1 individual base non-rebatable amount** is **$7,700**.

Step	Action	Result
8	Use the following formula: Type 1 individual base non-rebatable amount × $\frac{\text{FBT rate + GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times \text{FBT rate}}$ *(that is, the result from step 7 × 2.0647).*	$7,700 × 2.0647 = **$15,898** (rounded to nearest dollar) The **individual grossed-up type 1 non-rebatable amount** is **$15,898**.
9	Add amount 3 & amount 4 *(that is, the result from step 3 plus the result from step 6).*	$6,000 + $3,000 = **$9,000**. The **type 2 individual base non-rebatable amount** is **$9,000**.
10	Use the following formula: Type 2 individual base non-rebatable amount × $\frac{1}{1 - \text{FBT rate}}$ *(that is, the result from step 9 × 1.8692).*	$9,000 × 1.8692 = **$16,822** (rounded to the nearest dollar) The **individual grossed-up type 2 non-rebatable amount** is **$16,822**.
11	For each employee add: ■ the individual grossed-up type 1 non-rebatable amount for the FBT year *(that is, the result from step 8)*, and ■ the individual grossed-up type 2 non-rebatable amount for the FBT year *(that is, the result from step 10)*.	$15,898 + $16,822 = **$32,720** The **individual grossed-up non-rebatable amount** is **$32,720**.
12	Subtract $30,000 from the individual grossed-up non-rebatable amount for each employee.	$32,720 – $30,000 = **$2,720**.
13	Add together the amounts calculated at step 12 for each employee.	As there is only one employee, this amount is **$2,720**.
14	Multiply the total amount calculated at step 13 by the FBT rate.	$2,720 × 0.465 = **$1,264.80** The **aggregate non-rebatable amount** is **$1,264.80**.
15	Use this formula: 0.48 x (gross tax – aggregate non-rebatable amount) × (number of days in the FBT year you were a rebatable organisation ÷ total days in FBT year). that is: 0.48 × (table 1, step 13 – table 2, step 14) × $\frac{\text{rebatable days in year}}{\text{total days in year}}$	0.48 × ($16,270.81 – $1,264.80) × $\frac{365}{365}$ = 0.48 × $15,006.01 × 1 = **$7,202.88** The **FBT rebate** is **$7,202.88**

The rebatable organisation then needs to calculate their FBT payable (see table 3, following).

TABLE 3: Calculating your FBT payable

Step	Action	Result
1	Gross tax – FBT rebate *(that is, the result from table 1, step 13) – (the result from table 2, step 15).*	$16,270.81 – $7,202.88 = **$9,067.93** The FBT payable is **$9,067.93**.

6.7 REPORTABLE FRINGE BENEFITS

If the value of certain fringe benefits provided to your employees or their associates exceeds $1,000 in an FBT year you must record the grossed-up taxable value of those benefits on their payment summaries for the corresponding income year. This FBT reporting requirement applies even if your organisation is not liable to pay fringe benefits tax. For a list of benefits that are excluded from the reporting requirements refer to Chapter 5 for more information.

The Government has announced that from 1 April 2007, the fringe benefits reporting exclusion threshold will increase from $1,000 to $2,000.

MORE INFORMATION

- For more information about non-profit organisations, refer to our publication *Fringe benefits tax for non-profit organisations* (NAT 14947).
- For more information about charities, refer to our publication *Income tax guide for non-profit organisations* (NAT 7967).
- For more information about public benevolent institutions and health promotion charities, refer to our publication *Giftpack for deductible gift recipients & donors* (NAT 3132).
- For more information on applying for endorsement, refer to the *Instructions for endorsement as a tax concession charity* (NAT 10652).
- For more information on reportable fringe benefits, refer to our publication *Reportable fringe benefits – facts for employees* (NAT 2836).
- For other information, refer to Taxation Ruling TR 2003/5 – Income tax and fringe benefits tax: public benevolent institutions.

7 CAR FRINGE BENEFITS

This chapter provides information about:

- what is a car fringe benefit
- how to decide if the use of a car needs to be considered as a fringe benefit
- exemptions from car fringe benefits
- calculating the taxable value of a benefit using either the statutory formula method or the operating cost method, and
- recording keeping requirements.

> ❗ Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

7.1 WHAT IS A CAR FRINGE BENEFIT?

A car fringe benefit most commonly arises where you (the employer) make a car you 'hold' available for the private use of an employee (or the car is treated as being available). A car you hold generally means a car you own or lease.

The following types of vehicles (including four-wheel drive vehicles) are cars:

- motor cars, station wagons, panel vans and utilities (excluding panel vans and utilities designed to carry a load of one tonne or more)
- all other goods-carrying vehicles designed to carry less than one tonne, and
- all other passenger-carrying vehicles designed to carry fewer than nine occupants.

You make a car available for private use by an employee on any day that:

- it is actually used for private purposes by the employee, or
- the car is available for the private use of the employee.

A car is treated as being available for private use by an employee on any day that:

- the car is not at your premises, and the employee is allowed to use it for private purposes, or
- the car is garaged at the employee's home.

A car that is garaged at an employee's home is treated as being available for the private use of the employee regardless of whether they have permission to use it for private purposes. Similarly, where the place of employment and residence are the same, the car is taken to be available for the private use of the employee.

As a general rule, travel to and from work is private use of a vehicle.

Where a car is in a workshop for extensive repairs, for example, following a motor vehicle accident, it is not available for private use of the employee. However, a car is considered to be available for private use where it is in the workshop for routine servicing or maintenance.

Private use of a motor vehicle that is not a car may give rise to a residual fringe benefit (see 18.6).

If you hire a car for less than three months, you are not considered to 'hold' the car and it will not result in a car fringe benefit. However, if you make a rental car or taxi available for the private use of an employee, and the car is hired for less than three months, a residual fringe benefit may arise.

Special rule for emergency service cars

Home garaging for certain emergency service cars will not result in a car being treated as available for private use under the 'home garaging rule'. However, if the car is otherwise made available for private use, such as by actual private travel between work and home, a car fringe benefit may arise.
To qualify for this special rule the car must be used by an ambulance, police or firefighting service, have exterior markings indicating such use, and be fitted with a flashing warning light and horn, bell or alarm.

7.2 TAXABLE VALUE

You can calculate the taxable value of a car fringe benefit using either of the following methods.

The statutory formula method – the taxable value of the car fringe benefit is a percentage of the car's value. This percentage varies with the total distance travelled by the car during the FBT year (regardless of whether or not it is private travel). The greater the distance travelled, the lower the percentage and thus the taxable value.

The operating cost method – the taxable value of the car fringe benefit is a percentage of the total costs of operating the car during the FBT year. The percentage varies with the extent of actual private use. The lower the incidence of actual private use, the lower the taxable value.

7.3 CHOOSING THE VALUATION METHOD

You must use the statutory formula method unless you elect to use the operating cost method. You may elect to use the operating cost method for any or all of your cars, regardless of which method you used in a previous year. However, to use the operating cost method, you must have kept adequate FBT records (see 7.8).

You must decide to use the operating cost method no later than the day on which your FBT return is due to be lodged with the Tax Office or, if you do not have to lodge a return, by 21 May.

You can choose whichever method yields the lowest taxable value. There is no need to notify the Tax Office of the method chosen as your business records are sufficient evidence of this.

7.4 STATUTORY FORMULA METHOD

Use the following formula to calculate the taxable value of car fringe benefits under the statutory formula method.

$$\text{Taxable value} = \left(A \times B \times \frac{C}{D}\right) - E$$

Where:

A = the base value of the car
B = the statutory percentage
C = the number of days in the FBT year when the car was used or available for private use of employees
D = the number of days in the FBT year
E = the employee contribution.

Determining the base value of the car

Base value of a car you own

The base value of a car you own is:

- the original purchase price you paid (excluding registration and stamp duty)
- the cost of any fitted accessories not required for business use of the car (for example, a rear spoiler), and
- dealer delivery charges.

All costs and charges include GST and luxury car tax where appropriate.

Any non-business accessories added after you purchase the car increase the base value of the car for the year in which they are added and for subsequent years. (An example of a business accessory is a two-way radio in a salesman's car, while alloy wheels and seat covers are non-business accessories.)

Base value of a car you lease

Where the lease started when the lessor bought the car, the base value is the cost price to the lessor (including GST and luxury car tax). Any non-business accessories added after the lessor bought the car increase the base value of the car for the year in which they are added and for subsequent years.

Where the lessor acquired the car at some other time, the base value is the market value (including GST and luxury car tax) at the time you first held the car (that is, the amount a person could reasonably be expected to have paid to buy the car under an arm's length transaction).

Cars under a novated lease are subject to the same car fringe benefit valuation rules as other cars you lease (see 7.7).

Reducing the base value after four years

You do not reduce the base value of a car each year. However, you can reduce the base value of a car by one-third in the FBT year that commences after you have owned or leased the car for four years. That is, the reduction applies from 1 April after the fourth anniversary of the date on which you first owned or leased the car. The reduction applies only once for a particular car and you then use the reduced base value for subsequent years. The reduction does not apply to non-business accessories added after you acquired the car.

EXAMPLE: Reducing the base value after four years

An employer purchases a car for $30,000 (including GST) on 1 July 2001. The employer can reduce the base value of the car by one-third ($10,000) in the FBT year beginning 1 April 2006.

Safeguards

There are safeguards to make sure the true base value of a car is not artificially reduced by devices such as sale and lease-back or buy-back. The safeguards also apply where a leased car is acquired by the lessee on termination of the lease. Under the safeguards, the base value is determined at the time you or your associate first held the car and according to whether it was owned or leased at the time.

There are further safeguards to ensure a car that changes ownership at less than market value, or a car that is acquired at no cost (for example, a car donated to a charitable organisation) is priced appropriately. Generally, such a price is the market value of the car at the time of transfer.

Determining the statutory percentage

The statutory percentages for the FBT year are as follows.

Total kilometres travelled during the year	Statutory percentage
Less than 15,000	26
15,000 to 24,999	20
25,000 to 40,000	11
Over 40,000	7

Annualised kilometres

If you own or lease a car for part of an FBT year, you need to work out how many kilometres the car would have travelled if you had owned or leased it for the whole year. For example, where you acquire a car halfway through the year and the car travels 12,000 kilometres in the remaining 182 days of the year, this would give you an annual distance of 24,065 kilometres.

Use the following formula to calculate an annualised figure.

$$\frac{A}{B} \times C$$

Where:

A = the number of whole kilometres travelled in the period during the year when you owned or leased the car.

B = the number of days in that period.

C = the number of days in the FBT year.

Determining the number of days available for private use

The statutory formula method is based on the number of days during the FBT year when the car is available for the employee's private use or is actually used by the employee for private purposes. For more information about private use, see 7.1.

Determining the employee contribution

The amount that would otherwise be the taxable value of a car fringe benefit is reduced by the amount of any employee contribution.

An employee contribution may be an amount paid:

- directly to you by the employee for use of the car – the employee contribution must be made from the employee's after-tax income and is included in your assessable income, or
- by the employee to a third party for some of the car's operating costs (for example, fuel) and these contributions are not included in your assessable income.

However, the employee must provide you with documentary evidence of the expenditure (for example, receipts or invoices). In the case of petrol and oil costs, a declaration from the employee is sufficient for this purpose and receipts are not required. The declaration must be on a form approved by the Commissioner. The approved declaration is shown in 7.8.

An employee contribution (other than a contribution of services as an employee) is treated as consideration for a taxable supply for GST purposes. You therefore have to pay GST on the supply. You reduce the taxable value of the fringe benefit by the GST-inclusive amount of the employee contribution.

An employee contribution does not have any GST implications for you if:

- the contribution is made through payment of an amount by the employee for some of the car's operating costs (for example, fuel), or
- you are neither registered nor required to be registered for GST.

In certain circumstances, journal entries in your accounts can be an employee contribution.

EXAMPLE: Calculation using the statutory formula method

An employer purchases a car for $30,000 (including GST) on 1 October 2006 and:

- the car's base value is $30,000
- for the period 1 October 2006 to 31 March 2007 (that is, 182 days) the car is available for private use by the employee, who travels 15,000 kilometres. The annualised kilometres for the full 2006–07 FBT year would be 30,082, so the relevant statutory percentage is 11%
- the employee pays fuel costs of $1,000 and provides the employer with the necessary declaration.

The taxable value of the car fringe benefit provided during the year would be:

$$\text{Taxable value} = \left(A \times B \times \frac{C}{D}\right) - E$$

Where :

A = the base value of the car

B = the statutory percentage

C = the number of days in the FBT year when the car was used or available for private use of employees

D = the number of days in the FBT year (use 366 if a leap year)

E = the employee contribution.

$$\text{Taxable value} = \$30{,}000 \times 11\% \times \frac{182}{365} - \$1{,}000 = \$645.47$$

7.5 OPERATING COST METHOD

Use the following formula to calculate the taxable value of car fringe benefits under the operating cost method.

Taxable value = (A × B) – C

Where:

A = the total operating costs

B = the percentage of private use, and

C = the employee contribution.

Determining total operating costs

For this particular purpose, the operating costs of a car include some:

- actual costs, and
- deemed costs (that is certain costs that are considered to have been incurred even if they have not been).

These total operating costs are therefore different from those relevant for income tax purposes and include GST as appropriate.

Actual operating costs

The actual operating costs (including GST) are those expenses incurred for:

- repairs, but not crash repair expenses met by an insurance company or another person legally responsible for the damage to the car
- maintenance
- fuel
- registration and insurance (that is, the registration and insurance charges for the year or part of the year you used the car to provide fringe benefits), and
- leasing costs, if you lease rather than own the car (that is, the leasing costs of the car for the year or part of the year you used it to provide fringe benefits).

You include operating costs paid by someone else (for example, an employee or associate) when calculating total operating costs of a car in a year. As already noted, an exception to this rule is that any crash repair expenses met by an insurance company or other person legally responsible for the damage to the car are not included in total operating costs.

Deemed operating costs

Deemed operating costs are those expenses deemed to be incurred for depreciation and interest.

> **!** Deemed costs are relevant only if the car is owned, rather than leased. A car under hire purchase is considered to be owned by the hirer from the start of the hire purchase agreement.

Depreciation

You calculate deemed depreciation by multiplying the depreciated value of the car at the start of the FBT year by the deemed depreciation rate that applied at the time the car was purchased. If you did not use the car to provide fringe benefits for the full year, apportion the depreciation to reflect the period it was so used.

The depreciated value of a car for the year in which it is acquired is the cost of the car, including the cost of non-business accessories. The cost of the car includes GST and luxury car tax as appropriate.

You include dealer 'delivery' charges (including GST) in the cost of the car, but not registration and stamp duty charges.

In a subsequent year, the depreciated value of a car is the cost of the car, reduced by the deemed depreciation over the period of ownership. You calculate this using the deemed depreciation rate in force at the time you purchased the car.

You also include deemed depreciation on non-business accessories fitted to the car after its purchase.

You calculate deemed depreciation on this basis regardless of how you treat depreciation for income tax purposes.

> **!** The income tax depreciation cost limit does not apply for FBT purposes.

Change to depreciation rate

The FBT legislation reflects the change in effective life of cars for income tax purposes from 6.66 years to 8 years. The new rate applies to cars acquired on or after 1 July 2002.

The deemed depreciation rate varies depending on when the car was purchased, as follows.

- Car purchased before 1 July 2002 is 22.5%.
- Car purchased on or after 1 July 2002 is 18.75%.

Interest

You calculate deemed interest by multiplying the depreciated value of the car by the statutory interest rate. The statutory interest rate is published annually in a taxation determination and is also in the annual FBT return form instructions.

You calculate deemed interest on this basis regardless of any actual interest costs associated with purchasing the car. If you do not use the car to provide fringe benefits for the full year, apportion the amount of interest to reflect the period it is so used.

You also include deemed interest on non-business accessories fitted to the car after its purchase.

Determining percentage of private use

The percentage of private use of a car for a particular year is the difference between 100 and the percentage of business use. For example, if the percentage of business use is 75%, the percentage of private use is 25%.

Certain requirements must be met in order to ascertain the percentage of business use of a particular car and substantiate that percentage of business use. These include keeping logbook records and odometer records (see 7.8 for more details).

Private use generally

Private use is any use of your car by an employee or their associate that is not for income-producing purposes of the employee or the associate.

Travel to and from work is normally private use, even if the employee does minor jobs such as picking up mail on the way. There are a few circumstances where travel between home and work may count as work travel. These are outlined below.

Travel while on call

The fact that an employee may travel to and from work in response to a call while on stand-by would not ordinarily alter the character of that travel, that is, it remains private travel.

However, it is different where it can be determined that the employee started duties when they received the call. In this case, the journey from home to the place of employment is undertaken not to start work, but to complete employment duties already under way before the journey started. The travel, including the return trip, would therefore constitute business travel.

For example, a medical practitioner, under the terms of her employment with a hospital, is required to be accessible by phone to receive emergency calls and to give immediate treatment instructions before travelling to the hospital. Therefore, her responsibility for treating the patient starts when she receives the call. Although the travel taken in response to an emergency call is considered business travel, regular daily travel undertaken by the employee to and from work, and not in response to an emergency call, is still considered private.

This is different from the situation where an employee on stand-by duty is called on by the employer, but does not actually commence duties until after they arrive at the place of employment (for example, a computer technician on stand-by duty who does not commence duty until after arriving at the workplace).

Where an employee chooses to perform some of their work at home and, as a consequence, needs to respond to a call to attend to particular duties at the office or other usual workplace, travel to and from the office or other usual workplace is private.

Business trip on way to or from work

Where an employee is required in their ordinary course of duties to visit clients or customers, and the travel is from their usual place of employment, it is business travel.

Where an employee travels from home to the premises of a client or customer, the travel is accepted as business travel where:

- the employee has a regular place of employment to which they habitually travel
- in performing their duties as an employee, they travel to an alternative destination that is not a regular place of employment (for example, a plant operator who ordinarily travels directly to the job site rather than first calling at the depot), and
- the journey is to a location at which the employee performs substantial duties (for example, if an architect calls at a building site to check on plans on the way to the office where she is employed, this would be considered business travel).

Employment duties of an itinerant nature

Travel from an employee's home may be considered business travel where the nature of the office or employment is itinerant. Examples include commercial travellers and government inspectors whose homes are a base of operations, from which they travel to one of a number of locations throughout the day, over a continuing period.

Commonly, in these cases the employee works at the employer's office periodically (for example, once a week) to complete or file reports, pick up supplies or organise future trips. Travel between home and the office made in these limited circumstances is accepted as an ordinary incident of the business travel and, as such, is also treated as business travel.

The following characteristics are indicators of an itinerant worker:

- the work is inherently itinerant
- travel is a fundamental part of the employee's work
- it is impractical for the employee to perform the duties without using a car
- the terms of employment require the employee to perform duties at more than one place of employment
- the nature of the job itself makes travel essential for performing employment-related duties, and
- the employee can be said to be travelling in the performance of their employment-related duties from the time they leave home.

Travel between places of employment or business

Travel directly between two places of employment, two places of business or a place of employment and place of business is generally accepted as business travel where the person does not live at either of the places and they travel to engage in income-producing activities.

Determining the employee contribution

The amount that would otherwise be the taxable value of a car fringe benefit is reduced by the amount of any employee contribution.

An employee contribution may be:

- an amount paid directly to you by the employee for use of the car – the employee contribution must be made from the employee's after-tax income and is included in your assessable income, or
- an amount paid by the employee to a third party for some of the car's operating costs (for example, fuel) and these contributions are not included in your assessable income.

However, the employee must provide you with documentary evidence of the expenditure (for example, receipts or invoices). In the case of petrol and oil costs, a declaration from the employee is sufficient for this purpose and receipts are not required. The declaration must be in a form approved by the Commissioner. The approved declaration is shown in 7.8.

An employee contribution (other than a contribution of services as an employee) is treated as consideration for a taxable supply for GST purposes. You therefore have to pay GST on the supply. You reduce the taxable value of the fringe benefit by the GST-inclusive amount of the employee contribution.

An employee contribution does not have any GST implications for you if:

- the contribution is made through payment of an amount by the employee for some of the car's operating costs (for example, fuel), or
- you are neither registered nor required to be registered for GST.

In certain circumstances, journal entries in your accounts can be an employee contribution.

EXAMPLE: Calculation using the operating cost method

A car purchased by an employer in January 2006 is used privately by an employee throughout the FBT year 1 April 2006 to 31 March 2007, and:

- operating costs (including GST as appropriate) for that period (fuel, insurance, registration, repairs, etc) total $5,000
- the depreciated value at 1 April 2006 is $20,000, so that depreciation at 18.75% to 31 March 2007 would be $3,750 (that is 18.75% of $20,000)
- the statutory interest rate is 7.30%, so that the interest component to 31 March 2007 would be $1,460 (that is 7.30% of $20,000)
- the percentage of private use established under the procedures outlined above is 25%, and
- the employee spent $1,000 on fuel and has provided the required declaration to the employer.

The taxable value of the car fringe benefit for the 2006–07 FBT year would be:

$A \times B - C$

Where:

A = $10,210 (total operating costs), that is, $5,000 actual costs + $3,750 deemed depreciation + $1,460 deemed interest

B = 25% (percentage of private use)

C = $1,000 (amount of employee contribution).

Taxable value = ($10,210 × 25%) – $1,000 = $1,552

7.6 EXEMPT CAR BENEFITS

There are circumstances in which private use of a car by a current employee may be exempt from FBT.

An employee's private use of a taxi, or a panel van, utility or other commercial vehicle (that is, one not designed principally to carry passengers) is exempt if the employee's private use of such a vehicle is limited to:

- travel between home and work
- travel incidental to travel in the course of performing employment-related duties, and
- non-work-related use that is minor, infrequent and irregular (for example, occasional use of the vehicle to remove domestic rubbish).

EXAMPLE: Exempt use

An electrical company employee takes the company van (carrying capacity of less than one tonne) home each night as there is no security at the company premises. The only non-work-related use during the FBT year was a trip to pick up some furniture and take it to the employee's home. This use of the van would be exempt from FBT.

If the use of the vehicle exceeds the limits set out above, it is a car fringe benefit. All the private use of the vehicle, including the travel between home and work, is taken into account in determining the business percentage under the operating cost method. If no logbook records are maintained, the statutory formula method must be used to value the car fringe benefit.

Where the vehicle is not a car as defined in 7.1, a residual benefit arises (see 18.6).

EXAMPLE: Non-exempt use

A council employee takes a utility (carrying capacity of less than one tonne) home each night and on the weekends. Although the utility is clearly marked as a council vehicle, the employee uses it for shopping and other private purposes during the week and often for country trips on the weekends.

This use of the utility would not be exempt from FBT and would be treated as a car fringe benefit. Assuming there are no logbook records, the taxable value of the utility would be calculated using the statutory formula method.

Dual cab vehicles

Dual cab vehicles are variants of conventional goods vehicles with additional seating positions behind the driver and front passenger seats. They share a common chassis, to which the single or dual passenger cab and alternative tray sections may be fitted.

Dual cabs qualify for the work-related use exemption only if:

- they are designed to carry a load of one tonne or more, or more than eight passengers, or
- while having a designed load capacity of less than one tonne, they are not designed for the principal purpose of carrying passengers.

A dual cab that has a designed load-carrying capacity of less than one tonne may qualify for the work-related use exemption only if the vehicle is not designed for the principal purpose of carrying passengers. To determine whether the majority of the designed load capacity is attributable to passenger-carrying capacity, multiply the designed seating capacity (including the driver's) by 68kg, which is the figure used for applying the Australian Design Rules. If the total passenger weight so determined exceeds the remaining 'load' capacity, the vehicle is treated as being designed for the principal purpose of carrying passengers and is thus ineligible for the work-related use exemption.

EXAMPLE: Dual cab vehicles

A dual cab vehicle with a gross vehicle weight of 1,950 kg, a basic kerb weight of 1,400 kg, and a designed seating capacity of five would be considered a vehicle designed principally for carrying passengers. This is because the majority of the total load capacity (340 kg [5 × 68 kg] of a total of 550 kg) would be absorbed by its designed passenger-carrying capacity.

Modified cars

In limited circumstances, modified vehicles originally designed as passenger cars may be eligible for an exemption from FBT that is available for vehicles not designed for the principal purpose of carrying passengers.

Generally, the exemption applies only where modifications permanently change a car and cannot be readily reversed for the car to be regularly used alternately as a passenger or non-passenger car, if required. A clear example of this would be the process involved in producing hearses, where a station wagon body is extended, the rear doors removed, flush panelling fitted and the compartment behind the driver's seat suitably modified.

Unregistered vehicles

If a car is unregistered for the full FBT year and used principally for business purposes, any private use is exempt from FBT. A car that may be lawfully driven on a public road is regarded as being registered.

Personal services entities

A car benefit is an exempt benefit in relation to an FBT year if the person providing the benefit cannot deduct an amount under the *Income Tax Assessment Act 1997* (ITAA 1997) for providing the benefit because of section 86-60 of that Act.

Section 86-60 of the ITAA 1997 limits the extent to which a personal services entity can deduct car expenses. Deductions are not allowed for more than one car for private use.

The use of these cars is an exempt benefit because the entity is not entitled to claim an income tax deduction for these cars.

7.7 NOVATED LEASES

Full novation

Under this arrangement, an employee leases a vehicle from a financier using a standard finance lease agreement. The employee, you (employer) and the financier then enter into a novated lease, which transfers to you for the term of the lease:

- the employee's obligation to pay the lease payments
- the right to use the vehicle, and
- other obligations under the finance lease.

As the employer in the novated lease, you are entitled to a deduction for lease expenses where the vehicle is used in the business or provided to an employee as part of a salary packaging arrangement. However, this rule does not apply to leasing a luxury car. In the case of a luxury car, the deduction is based on an accrual amount and depreciation is subject to the luxury car depreciation limit.

FBT consequence of full novations

A car fringe benefit arises where you are the lessee of a car that is provided for the private use of an employee or associate of the employee. Cars under a full novated lease are subject to the same car fringe benefit valuation rules as other cars you lease.

Split full novation

A variation on the full novation is an arrangement known as a split full novation. Under this arrangement, the lessee's rights and obligations under a finance lease (except the residual payment obligation) are transferred to you.

FBT consequence of split full novations

Cars under a split full novated lease are subject to the same car fringe benefit valuation rules as other cars you lease.

FBT consequence of purchasing the car at less than market value

A residual benefit will arise where the employee takes advantage of an opportunity to purchase the car for less than its market value at the end of the lease. This is because the opportunity to purchase the car at less than its market value is a residual benefit and the opportunity to do this is directly or indirectly through the employment relationship.

Transfer of lease to new employer

Upon a terminating event, such as the payment of the last lease payment under the novated lease or termination of employment, a further novation may occur. Under the further novation, your rights and obligations are novated to the employee. The employee becomes the lessee and can take this lease to another employer.

Where an employee transfers a novated lease to a new employer who is not an associate of yours, the base value of the car is the market value at the time of transfer.

EXAMPLE

An employee has a bona fide novated leasing arrangement with her employer. The base value of the leased car at the start of the lease was $35,000. The employee finished employment with the company on 31 March 2006. At that time, the novation agreement between the finance company and the employer was terminated. The employee became responsible for the lease obligations from 1 April 2006.

The employee started working for a new employer on 1 May 2006. The new employer entered into a new novation agreement on this date. The market value of the car on this date was $25,000.

The base value of the car to the new employer is $25,000, assuming the new employer is not an associate of yours. However, the base value remains at $35,000 if the new employer is an associate of yours.

7.8 RECORD KEEPING REQUIREMENTS

For each car, you should keep:

- odometer records
- details of the car's make, model and registration number, and
- all records relating to the costs of operating the car, including the deemed costs.

The record keeping requirements vary for the statutory formula and operating cost methods and are explained below.

For further information about record keeping requirements, see chapter 4.

Fuel and oil expenses declaration

You can apply car expenses paid for by an employee as an employee contribution under both the statutory formula and operating cost methods. However, the employee must provide you with documentary evidence of the expenditure (for example, receipts or invoices). In the case of petrol and oil costs, a declaration from the employee is sufficient. The declaration must be in the form approved by the Commissioner. The approved declaration is shown on the next page.

You have to obtain any relevant declarations before the due date for lodging your annual FBT return or, if you do not have to lodge a return, by 21 May.

Fuel expenses declaration

I _____ declare that
(Employee's full name)

_____ expenses of $ _____
(state whether fuel and/or oil) *(amount in figures)*

were incurred by me during the period from _____ 20 _____ to _____ 20 _____

in respect of _____ registration number _____
(make and model of car)

Signed _____

Date _____

If the employee is responsible for all fuel and/or oil costs, a declaration based on a reasonable estimate derived from the total kilometres travelled, average fuel costs and fuel consumption will be acceptable. In these cases the declaration should be extended as follows:

I also declare that the total kilometres travelled during the period was _____

Statutory formula method records

Base value

You can obtain the base value of a car from the normal purchase records or any other records relating to the direct cost of the vehicle. The records should include the purchase price (subject to the various inclusions and omissions discussed at 7.4) and the date of purchase.

Records you can use to work out the base value include:

- invoices/tax invoices
- receipts
- journal entries
- bills of sale, and
- lease documents.

Total kilometres travelled

If you use the statutory formula method to calculate the taxable value of a car fringe benefit, you have to determine the total kilometres travelled by the car during the year. The best way to do this is to keep a record of the odometer readings at the beginning and end of the FBT year.

If you fail to record odometer readings for the car, it is acceptable to provide appropriate evidence of two separate odometer readings close to the beginning and end of the FBT year, for example:

- vehicle purchase or sale invoices showing an odometer reading
- repair invoices showing an odometer reading
- service records showing an odometer reading
- any document used for registration purposes that shows an odometer reading (for example, pink slips)
- entries in your logbooks showing an odometer reading close to the beginning and/or end of the FBT year (as long as the entry is dated, and shows the name and signature of the person making the entry, and the odometer reading)
- fleet management or oil company charge cards that show an odometer reading on account statements, or

- if a new car was purchased and no odometer reading was recorded on the vehicle purchase invoice, zero kilometres is acceptable as the opening odometer reading.

Days available for private use

If a car is available for private use every day of the year, you do not have to keep records of when the car is available. But you must record the days when the car is not used or available for private travel. You can do this in a number of ways, including referring to the pattern of use, for example, where a car is garaged each night.

Operating cost method records

Calculating and substantiating the percentage of business use

If you use the operating cost method to calculate the taxable value of a car fringe benefit, you have to calculate the percentage of business use of the car and keep records that substantiate the percentage of business use.

Because logbook records are normally maintained for only 12 weeks, take care in estimating the percentage of business use of the car. The estimate must take into account the information in the logbook records and the odometer records, as well as any variations in the pattern of business use throughout the year.

The percentage of business use of a car is calculated as:

$$\frac{A}{B} \times 100\%$$

Where:

A = your estimate of business kilometres travelled by the car during the FBT year (or part-year, as the case may be)

B = the total kilometres (both business and private) actually travelled by the car during the same period.

Estimating the business kilometres travelled in a logbook year

In estimating the business kilometres travelled in a logbook year, you must:

- keep a logbook recording details of business journeys undertaken in the car for a continuous period of at least 12 weeks (the logbook period must also be recorded in the logbook)
- keep odometer records of the total kilometres travelled during that period
- keep odometer records of the total kilometres travelled during the year
- estimate the number of business kilometres travelled during the full FBT year (or part-year if appropriate), and
- take into account all relevant matters, including logbook, odometer and any other records you keep, and any variations in the pattern of business use throughout the year due to things like holidays or seasonal factors.

Estimating the business kilometres travelled in a non-logbook year

In estimating the business kilometres travelled in a non-logbook year, you must:

- keep odometer records of the total kilometres travelled during the year (or part-year if appropriate)
- estimate the number of business kilometres travelled during the full FBT year (or part-year if appropriate), and
- take into account all relevant matters, including logbook, odometer and any other records you keep, and any variations in the pattern of business use throughout the year due to things like holidays or seasonal factors.

Replacement cars

If you replace a car during the year, you may treat the replacement car as though it were the replaced car for the purposes of complying with the requirements of the operating cost method.

If you maintained logbooks and odometer records during the year or in a previous year, you may transfer that percentage to the new car (if it remains appropriate) when estimating a business percentage for the replaced car.

The transfer of a business percentage in this way is conditional on you recording in your business records the make, model and registration number of both cars and the date on which the replacement was made. These entries must be made before the due date for lodging your annual FBT return or, if you do not have to lodge a return, by 21 May. Odometer records you keep for the cars during the replacement year must show details of the odometer readings of both the replaced car and the new car on the replacement date.

Logbook year

A year is a logbook year if:

- none of the previous four years was a logbook year of tax for that car
- you elect to treat the year as a logbook year (for example, to increase the nominated percentage of business travel), or
- the Commissioner of Taxation, by written notice, requires you to treat the year as a logbook year.

MORE INFORMATION

- Taxation Determination TD 94/16 – Fringe benefits tax: where an employee is provided with a car by the employer and the car is kept in safe storage (e.g. in a commercial garage) while the employee is travelling, under what circumstances is that car taken to be available for private use under section 7 of the *Fringe Benefits Tax Assessment Act 1986*?
- Taxation Determination TD 2005/8 – Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2005?
- Taxation Determination TD 2006/24 – Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2006?
- Taxation Ruling TR 1999/15 – Income tax and fringe benefits tax: taxation consequences of certain motor vehicle lease novation arrangements.
- Miscellaneous Tax Ruling MT 2033 – Fringe benefits tax: application of sub-section 8(2) exemption to modified cars.
- Miscellaneous Tax Ruling MT 2024 and addendums MT 2024A and MT 2024A2 – Fringe benefits tax: dual cab vehicles eligibility for exemption where private use is limited to certain work related travel.
- Miscellaneous Tax Ruling MT 2027 – Fringe benefits tax: private use of cars – home to work travel.
- Miscellaneous Tax Ruling MT 2050 – Fringe benefits tax: payment of recipients contributions by journal entry.

LOAN AND DEBT WAIVER FRINGE BENEFITS

8

This chapter explains:

- the difference between a debt waiver fringe benefit and a loan fringe benefit
- how to calculate the taxable value of debt waiver and loan fringe benefits
- when the otherwise deductible rule applies in relation to loan fringe benefits, including in respect of a car, and
- when loan benefits may be exempt from FBT.

> ! Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

8.1 WHAT IS A DEBT WAIVER FRINGE BENEFIT?

A debt waiver fringe benefit arises where you (the employer) waive or forgive an employee's debt. For example, if you sold goods to an employee and later tell them not to bother about paying the invoiced amount, you have provided a debt waiver fringe benefit.

> ! A debt owed by an employee that is written off as a genuine bad debt is not a debt waiver fringe benefit.

8.2 TAXABLE VALUE OF DEBT WAIVER FRINGE BENEFITS

The taxable value of a debt waiver fringe benefit is the amount of the debt that is released. For example, if you release an employee from an obligation to repay a loan of $1,000, the taxable value of the debt waiver fringe benefit is $1,000. Where the amount you waive includes an amount of principal and accrued interest (for example, $1,000 principal and $100 interest), the taxable value of the debt waiver fringe benefit is the total amount waived, that is, $1,100 in this example.

GST does not affect the taxable value of debt waiver fringe benefits, so these benefits are always grossed up at the lower (type 2) rate. Chapter 1 contains more information about GST and FBT.

8.3 WHAT IS A LOAN FRINGE BENEFIT?

A loan fringe benefit arises where you provide a loan to an employee and charge a low rate of interest (or no interest) during the FBT year. A low rate of interest is one that is less than the statutory rate of interest (also known as the benchmark interest rate).

The use of the term 'loan' is quite broad. For example, if an employee owes you a debt but you do not enforce payment after the debt becomes due, the unpaid amount is treated as a loan to the employee. Such a loan commences immediately after the due date, at the rate of interest (if any) that accrues on the unpaid amount.

Where you make a loan to an employee under terms that allow for interest payments to be made less frequently than every six months, you are treated at the end of each six months as having separately loaned, at a nil rate of interest, any unpaid amount of interest. The period of the deemed loan is from the end of the six months until the interest is paid or becomes payable.

Where you release an employee from the obligation to repay the loan, a debt waiver fringe benefit arises (see 8.1).

8.4 STATUTORY INTEREST RATE

The statutory interest rate is set by reference to the standard variable rate for owner-occupied housing loans of the major banks that the Reserve Bank of Australia published most recently before the beginning of the FBT year. This statutory rate is the basis for calculating fringe benefit values for all types of loans you provide, whether interest-free or at low interest. As explained below, the statutory interest rate may differ for housing loans made to employees before 3 April 1986, or for loans bearing a fixed interest rate taken out before 1 July 1986.

The statutory interest rate is announced each year in a taxation determination, usually published in April. The statutory interest rate for the year commencing 1 April 2006 is 7.30%.

Following is a list of statutory interest rates.

Period during which loan was made

Date on which period commenced	Date on which period ended	Interest rate (% per annum)
1 January 1946	1 August 1952	3.875
2 August 1952	31 March 1956	4.5
1 April 1956	28 February 1961	5.0
1 March 1961	10 April 1963	5.25
11 April 1963	31 March 1965	4.75
1 April 1965	31 July 1968	5.0
1 August 1968	31 March 1970	5.5
1 April 1970	30 September 1973	6.25
1 October 1973	13 September 1974	7.25
14 September 1974	28 February 1978	9.25
1 March 1978	31 March 1980	8.75
1 April 1980	31 July 1980	9.25
1 August 1980	31 December 1980	9.75
1 January 1981	31 August 1981	10.75
1 September 1981	31 March 1982	11.75
1 April 1982	31 January 1983	12.75
1 February 1983	30 September 1983	12.50
1 October 1983	30 November 1983	12.00
1 December 1983	15 April 1985	11.50
16 April 1985	14 July 1985	12.00
15 July 1985	30 September 1985	12.50
1 October 1985	6 April 1986	13.50
7 April 1986	30 June 1986	14.75

Period during which loan was made

Date on which period commenced	Interest rate (% per annum)
1 April 1986	14.75
1 April 1987	14.75
1 April 1988	12.75
1 April 1989	14.25
1 April 1990	14.90
1 April 1991	13.50
1 April 1992	9.25
1 April 1993	7.25
1 April 1994	8.75
1 April 1995	10.50
1 April 1996	10.50
1 April 1997	7.55
1 April 1998	6.70
1 April 1999	6.50
1 April 2000	7.30
1 April 2001	7.55
1 April 2002	6.05
1 April 2003	6.55
1 April 2004	7.05
1 April 2005	7.05
1 April 2006	7.30

8.5 TAXABLE VALUE OF LOAN FRINGE BENEFITS

The taxable value of a loan fringe benefit is the difference between:

- the interest that would have accrued during the FBT year if the statutory interest rate had applied to the outstanding daily balance of the loan, and
- any interest that actually accrued.

GST does not affect the taxable value of loan fringe benefits, so these benefits are always grossed up at the lower (type 2) rate. Chapter 1 contains more information about GST and FBT.

EXAMPLE

On 1 April 2006 an employee was given a $50,000 loan at an annual interest rate of 5% (payable six-monthly). No repayments of principal were required during the next 12 months. The statutory interest rate is 7.30%.

The notional interest on such a loan would be $3,650 ($50,000 × 7.30%).

The actual interest for the 2006–07 FBT year would be $2,500 ($50,000 × 5%). The difference of $1,150 ($3,650 – $2,500) would be the taxable value of the loan fringe benefit.

8.6 FIXED INTEREST LOANS MADE BEFORE 1 JULY 1986

For this purpose, a fixed interest loan is one where the rate of interest cannot be varied and that rate is specified in a document that existed at the time the loan was made.

Where a fixed interest loan was made before 1 July 1986, the statutory interest rate is the lesser of:

- the statutory interest rate that applies generally for the FBT year in which the value of the benefit is being determined, or
- the statutory interest rate specified in the table at 8.4 as applying when the loan was taken out.

8.7 HOUSING LOANS MADE BEFORE 3 APRIL 1986

The statutory interest rate for housing loans made before 3 April 1986 (other than fixed interest loans) is the lesser of:

- the statutory interest rate that applies generally for the FBT year in which the value of the benefit is being determined, or
- 13.5%.

So the maximum statutory interest rate for such loans is 13.5%.

8.8 REDUCTION IN TAXABLE VALUE WHERE INTEREST WOULD HAVE BEEN DEDUCTIBLE TO EMPLOYEE

The taxable value of a loan fringe benefit may be reduced in accordance with the 'otherwise deductible' rule, but only if the recipient of the benefit is the employee (that is, a loan provided to an associate is not eligible for this reduction). Broadly, this means that the taxable value may be reduced to the extent to which interest payable on the loan is, or would be, allowable as an income tax deduction to the employee. For example, if an employee were to use a loan from you wholly to purchase interest-bearing investments, any interest payable on the loan would be wholly deductible for income tax purposes. So under the otherwise deductible rule, the taxable value of this loan fringe benefit would be nil, regardless of whether you charged a low, or even a nil, rate of interest on the loan.

Special rules apply where the interest that would have been deductible to the employee is incurred in relation to a car (see 8.10).

Applying the otherwise deductible rule produces different results depending on whether any interest charged was intended to be for any private element of the loan fringe benefit. This is because the employee is entitled to an income tax deduction for interest charged on the portion of the loan used to derive their assessable income, but not for interest charged on the portion of the loan used for private or domestic purposes.

Therefore, where the otherwise deductible rule applies, the taxable value of a loan fringe benefit is:

- the interest that would have accrued during the FBT year if the statutory interest rate had applied to the outstanding daily balance of the loan, reduced by
- any interest that actually accrued; this result is then further reduced by
- the otherwise deductible amount.

You can calculate the taxable value of a loan fringe benefit where the otherwise deductible rule applies using the following steps.

Step	Action
1	Calculate the taxable value of the loan fringe benefit ignoring the otherwise deductible rule.
2	Ignore any interest you charged on the loan and calculate the taxable value of the loan fringe benefit as if the loan was interest-free.
3	Now suppose that the employee had paid interest equal to the amount of the taxable value as calculated in step 2. How much of this hypothetical interest payment would have been income tax deductible to the employee?
4	Now look at the real loan situation. If the employee is being charged interest on the loan, how much of this interest is allowable as an income tax deduction to the employee?
5	Subtract the actual deductible amount (step 4) from the hypothetical deductible amount (step 3). The result is the amount by which the taxable value of the fringe benefit may be reduced.
6	The taxable value is your result from step 1 minus your result from step 5.

EXAMPLE: Rate set without regard to employee's use of loan

On 1 April 2006 an employee is given a loan of $50,000 at 5% for the whole of the FBT year. No repayments of principal are required in that year. The 5% rate is set without regard to how the employee intends to use the loan. The employee applies 60% of the loan to interest-bearing investments and spends the remaining 40% on home improvements.

The statutory interest rate is 7.30%.

The taxable value is calculated as follows.

Step	Action	Result
1	Calculate the taxable value of the loan fringe benefit without the otherwise deductible rule. That is: (Amount of loan × statutory interest rate) – (Amount of loan × actual interest rate charged)	($50,000 × 7.30%) – ($50,000 × 5%) $3,650 – $2,500 = $1,150
2	Ignore any interest charged on the loan and calculate the taxable value of the loan benefit as if the loan was interest-free.	$50,000 × 7.30% = $3,650
3	Now suppose that the employee had paid interest equal to the amount of the taxable value calculated in step 2. How much of this hypothetical interest payment would have been income tax deductible to the employee?	$3,650 × 60% = $2,190
4	Now look at the real loan situation. If the employee is being charged interest on the loan, how much of this interest is allowable as an income tax deduction to the employee?	$2,500 × 60% = $1,500
5	Subtract the actual deductible amount (step 4) from the hypothetical deductible amount (step 3). The result is the amount by which the taxable value of the fringe benefit may be reduced.	$2,190 – $1,500 = $690
6	The taxable value is the result from step 1 minus the result from step 5.	$1,150 – $690 = $460

EXAMPLE: Rate set with regard to employee's use of loan

On 1 April 2006 an employee is given a loan of $50,000 at 3.78% for the whole of the FBT year. No repayments of principal are required in that year. The employee intends to use 50% of the loan for interest-bearing investments and spend the remaining 50% on home improvements.

The statutory interest rate is 7.30%.

The 3.78% interest rate is set by the employer after considering how the employee intends to use the loan (that is, the employer knows that under the otherwise deductible rule there will be no FBT liability for that part of the loan used to produce income. The employer therefore charges interest at a rate sufficient to avoid incurring FBT on that part of the loan used for private or domestic purposes).

By the time the employee actually obtains the loan funds, the interest-bearing investments have increased in price and eventually cost 60% of the funds, so only 40% of the funds are spent on home improvements.

The taxable value is calculated as follows.

Step	Action	Result
1	Calculate the taxable value of the loan fringe benefit without the otherwise deductible rule. That is: (Amount of loan × statutory interest rate) – (Amount of loan × actual interest rate charged)	($50,000 × 7.30%) – ($50,000 × 3.78%) $3,650 – $1,890=$1,760
2	Ignore any interest charged on the loan and calculate the taxable value of the loan benefit as if the loan was interest-free.	$50,000 × 7.30% = $3,650
3	Now suppose that the employee had paid interest equal to the amount of the taxable value calculated in step 2. How much of this hypothetical interest payment would have been income tax deductible to the employee?	$3,650 × 60% business use = $2,190
4	Now look at the real loan situation. If the employee is being charged interest on the loan, how much of this interest is allowable as an income tax deduction to the employee? If the employer had not made allowance for the intended use of the loan, they would have charged interest at the statutory rate of 7.30%. However, because the employer reduced the interest rate to take into account the intended business use and the effect of the otherwise deductible rule, the employee's income tax deduction is limited to: ■ the amount that would have been allowed as a deduction to the employee if no allowance had been made for the income-producing purpose for which some of the loan funds were to be used, reduced by ■ the amount of the allowance that was made.	$50,000 × 7.30% interest rate × 60% business use. The employee would have been entitled to a deduction of: $3,650 interest × 60% business use = $2,190 = ($50,000 × 7.30% × 60%) – ($50,000 × 7.30% × 50%) = $2,190 – $1,825 =$365
5	Subtract the actual deductible amount (step 4) from the hypothetical deductible amount (step 3). The result is the amount by which the taxable value of the fringe benefit may be reduced.	$2,190 – $365 = $1,825
6	The taxable value is the result from step 1 minus the result from step 5.	$1,760 – $1,825 = 0

There can be no negative figures.

8.9 SUBSTANTIATION REQUIREMENTS

Where you use the otherwise deductible rule, you must have an employee declaration to substantiate the extent to which the interest would have been 'otherwise deductible' to the employee. You must obtain the declaration from the employee before lodging the relevant FBT return or if you do not have to lodge a return, by 21 May. Where the documentation is a declaration by the employee, it must be in a form approved by the Commissioner. The approved declaration is shown below.

There is no need to obtain a declaration where the loan:

- is used solely to enable the employee to acquire shares in your company and the shares are owned by the employee throughout the period of the year when the loan is outstanding, or
- consists of you providing credit for a sale to the employee of goods or services used exclusively in the employee's employment, for example, where you sell protective clothing to an employee on interest-free credit terms.

Loan fringe benefit declaration

I _____ declare that the loan of $ _____
(name of employee) *(amount in words)*

made to me by _____
(name of person who lent you the money)

on _____ 20_____ was used by me during the period from

_____ 20_____ to _____ 20_____

for the following purpose(s):

_____
(Please give sufficient information to demonstrate the extent to which the loan was used for the purpose of earning your assessable income.)

I also declare that had I paid interest at a commercial rate on the loan for the above period, I would have been entitled to claim an income tax deduction equal to _____ % of the interest on that loan.

Signed _____

Date _____

This declaration is also available on our website in PDF format.

8.10 REDUCTION IN TAXABLE VALUE WHERE INTEREST THAT WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE IS INCURRED IN RELATION TO A CAR

Where a loan fringe benefit is provided in relation to a car owned or leased by the employee, there are special rules for determining how much, if any, of your expenditure would have been 'otherwise deductible' to the employee.

These special rules are actually three different methods of calculating the amount of interest that hypothetically would have been income tax deductible to the employee (that is, step 3 in the six-step procedure explained in 8.8). The differences arise from the extent to which the car is used for business or employment-related purposes, and/or the type of evidence available to substantiate that use.

The first method is substantiated by means of logbook records and/or odometer records. The second and third methods are substantiated by an employee declaration only. See chapter 21 for full details and the appropriate declaration.

The employee declaration shown in 8.9 is not suitable to be used for a loan related to a car.

8.11 OTHER REDUCTIONS IN TAXABLE VALUE

A number of fringe benefits attract concessional treatment. The concession is a reduction in the taxable value of the fringe benefit that results in a reduced amount of FBT, or even no FBT, being payable.

You calculate the taxable value of a loan fringe benefit in accordance with the valuation rules explained in 8.3 to 8.7. Where the otherwise deductible rule applies, you then reduce the taxable value as explained in 8.8.

If the fringe benefit is of a type that attracts the **remote area housing assistance** concession, you may reduce the taxable value further, as explained in 19.2.

8.12 EXEMPT LOANS

A loan benefit may be exempt from FBT in any of the following circumstances.

- If, as an employer, you are engaged in the business of lending money and the interest rate on a loan to an employee is fixed at a rate at least equal to the interest on a comparable loan made to a member of the public in the ordinary course of business at about the time the loan was made to the employee.
- If you are engaged in a business of lending money and, for each FBT year over which the loan extends, the rate of interest is variable, but never less than the arm's length rate you charge on loans made at about the time the loan was made to the employee.
- You advance money to an employee solely to meet expenses to be incurred within six months of the advance being made. The expense must be incurred in carrying out duties of employment with you, the employer who made the advance. It must be accounted for by the employee and any excess advance refunded or otherwise offset.
- An advance, repayable within 12 months, is made to an employee solely to pay a security deposit on accommodation, for example, a rental bond or service connection deposit. The accommodation must give rise to an exempt benefit as explained in 20.4, or must be temporary accommodation eligible for a reduced taxable value in accordance with the relocation concessions (see 19.4).

MORE INFORMATION

- Miscellaneous Tax Ruling MT 2019 – Fringe benefits tax: shareholder employees of family private companies and directors of corporate trustees.
- Taxation Determination TD 93/90 – Income tax: does the 'otherwise deductible rule' apply to reduce the taxable value of fringe benefits provided to associates of employees?
- Taxation Determination TD 95/17 – Fringe benefits tax: is the taxable value of a loan fringe benefit calculated only for those periods in the year of tax during which the interest rate on the loan was below the statutory interest rate?
- Taxation Determination TD 95/18 – Fringe benefits tax: can the making of a loan to an employee be an exempt benefit under subsections 17(1) or 17(2) of the *Fringe Benefits Tax Assessment Act 1986* where the employee receives a reduced interest rate not available to members of the public?
- Taxation Determination TD 2005/8 – Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2005?
- Taxation Determination TD 2006/24 – Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2006?

9 EXPENSE PAYMENT FRINGE BENEFITS

Expenses may be business or private or a combination of both. This chapter looks at the following:

- what is an expense payment fringe benefit and how to value it
- in-house expenses and how they are valued having regard to the concessional valuation rules
- reductions in taxable value in accordance with the otherwise deductible rule
- exempt expense payment benefits, and
- common expenses reimbursed or paid for by employers.

> **!** Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

9.1 WHAT IS AN EXPENSE PAYMENT FRINGE BENEFIT?

An expense payment fringe benefit may arise in either of two ways:

- where you (the employer) reimburse an employee for expenses they incur, or
- where you pay a third party in satisfaction of expenses incurred by an employee.

In either case, the expenses may be business expenses or private expenses, or a combination of the two.

> **!** It is important to note that the rules in this chapter apply to expenses incurred by an employee that are reimbursed or paid by you, the employer. They do not apply to goods or services you purchase directly and provide to the employee. Nor do they apply to goods or services purchased using your credit card. Goods or services acquired in these ways are subject to valuation under the property or residual benefit rules discussed in chapter 17 and chapter 18.

9.2 TAXABLE VALUE

The taxable value of an expense payment fringe benefit is the amount you reimburse or pay. However, you use concessional valuation rules to calculate the taxable value of in-house expense payment fringe benefits.

> **!** In an attempt to keep explanations as simple as possible, we sometimes refer to 'the reimbursement' rather than 'the reimbursement or payment'.

9.3 IN-HOUSE EXPENSE PAYMENT FRINGE BENEFITS

An in-house expense payment fringe benefit arises where the expenditure you reimburse or pay for was incurred by the employee (or family member) in purchasing goods or services that you (or an associate) sell to customers or clients in the ordinary course of your business. There are two types of in-house expense payment fringe benefits:

- an in-house property expense payment fringe benefit, and
- an in-house residual expense payment fringe benefit.

EXAMPLE

An employer who is a manufacturer markets her products through independent retailers.

The employees of that employer purchase those products from the retailers at full retail price, but subsequently receive a reimbursement from the employer for part of the purchase price.

The reimbursement is an in-house property expense payment fringe benefit.

Taxable value of an in-house property expense payment fringe benefit

The taxable value of an in-house property expense payment fringe benefit is equal to the amount that would be the taxable value under the in-house rules explained in chapter 17 if the sale of the goods to the employee (or associate) by the vendor had constituted an in-house property fringe benefit. For this purpose, the employee contribution would be the amount of expenditure incurred by the employee (or associate), reduced by the amount you reimburse or pay them.

Taxable value of an in-house residual expense payment fringe benefit

The taxable value of an in-house residual expense payment fringe benefit is equal to the amount that would be the taxable value under the in-house rules explained in chapter 18 if the service or privilege had constituted an in-house residual fringe benefit. For this purpose, the employee contribution would be the amount of expenditure incurred by the employee (or associate), reduced by the amount you reimburse or pay them.

EXAMPLE

An employer manufactures petroleum products for sale to the public through independent retail outlets.

An employee purchases petroleum from one of the retailers at the ordinary retail price of $1,000. The employer reimburses the employee $250 of that expense.

The retailer had purchased the petroleum from the employer for $800.

The taxable value of this in-house property expense payment fringe benefit is:

$800 – ($1,000 – $250) = $50.

The effect is that, irrespective of whether a staff discount is provided directly as a property or residual fringe benefit or indirectly as an expense payment fringe benefit, the taxable value is the same.

9.4 REDUCTION IN TAXABLE VALUE WHERE EXPENDITURE WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE

The taxable value of an expense payment fringe benefit may be reduced in accordance with the 'otherwise deductible' rule, but only if the recipient of the benefit is the employee. Broadly, this means that the taxable value may be reduced by the amount the employee would have been entitled to claim as an income tax deduction if you had not reimbursed them.

For example, if an employee incurred an expense solely in performing employment-related duties, the expenditure would be wholly deductible for income tax purposes. Under the otherwise deductible rule, if you reimbursed the employee for all or part of this expense, the taxable value of the expense payment fringe benefit would be nil.

The otherwise deductible rule does not apply to deductions for the decline in value of depreciating assets, except when the cost is less than $301.

Special rules operate where the expenditure that would have been deductible to the employee is incurred in relation to a car (see 9.6).

Applying the otherwise deductible rule produces different results depending on whether the reimbursement you made was intended to be for the business element of the expense payment fringe benefit. This is because the employee is entitled to an income tax deduction for that portion of the expenditure incurred to derive their assessable income, but not for that portion of the expenditure incurred for private or domestic purposes.

You can apply the otherwise deductible rule using the following steps.

Step	Action
1	Write down the amount of the employee's gross expenditure, that is, the amount spent before any reimbursement from you.
2	Now suppose that the employee had not been reimbursed for any of the expenditure in step 1. In this hypothetical situation, how much of this expenditure would have been income tax deductible to the employee?
3	Now look at the actual fringe benefit situation. How much of the employee's expenditure are they entitled to claim as an income tax deduction? There are two possibilities. If you reimbursed all or part of the business component of the employee's expenditure, their income tax deduction is calculated as follows: ■ The amount of the employee's expenditure is multiplied by the business percentage. This result is then reduced by the amount of the reimbursement. The resulting amount is their income tax deduction. Alternatively, if the amount you reimbursed was not calculated by reference to the business component of the expenditure, their income tax deduction is calculated as follows: ■ The amount of the employee's expenditure is reduced by the amount of the reimbursement. This result is then multiplied by the business percentage. The resulting amount is their income tax deduction.
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The resulting figure is the amount by which the taxable value of the fringe benefit may be reduced.

Therefore, where the otherwise deductible rule applies, the taxable value of an expense payment fringe benefit is:

- the amount of your reimbursement or payment, reduced by
- the amount obtained at step 4 of the otherwise deductible rule.

EXAMPLE

An employee incurred expenditure of $500, 80% of which was employment-related (and income tax deductible) and 20% private.

The employer reimbursed the employee for $250, without regard to whether the employee's expenditure was for business or private purposes.

The taxable value of the expense payment fringe benefit (without the otherwise deductible rule) is $250.

Apply the otherwise deductible rule as follows.

Step	Action	Result
1	Write down the amount of the employee's gross expenditure, that is, the amount spent before any reimbursement from you.	$500
2	Now suppose that the employee had not been reimbursed for any of the expenditure in step 1. In this hypothetical situation, how much of this expenditure would have been income tax deductible to the employee?	$500 × 80% = $400
3	Now look at the actual fringe benefit situation. How much of the employee's expenditure are they entitled to claim as an income tax deduction? The amount of the employee's expenditure is reduced by the amount of the reimbursement. This result is then multiplied by the business percentage. The resulting amount is their income tax deduction.	($500 – $250) × 80% = $250 × 80% = $200
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The resulting figure is the amount by which the taxable value of the fringe benefit may be reduced.	$400 – $200 = $200
5	Finally, the taxable value of $250 may be reduced by $200.	$250 – $200 = $50

EXAMPLE

An employee incurred expenditure of $500, 80% of which was employment-related (and income tax deductible) and 20% private.

The employer reimbursed the employee for $350 after considering the extent to which the employee's expenditure was employment-related and income tax deductible. (That is, the employer knew that under the otherwise deductible rule there would be no FBT liability for that part of the fringe benefit used to produce income, so they avoided reimbursing the private or domestic part of the employee's expenditure.)

The taxable value of the expense payment fringe benefit (without the otherwise deductible rule) is $350.

Apply the otherwise deductible rule as follows.

Step	Action	Result
1	Write down the amount of the employee's gross expenditure, that is, the amount spent before any reimbursement from you.	$500
2	Now suppose that the employee had not been reimbursed for any of the expenditure in step 1. In this hypothetical situation, how much of this expenditure would have been income tax deductible to the employee?	$500 × 80% = $400
3	Now look at the actual fringe benefit situation. How much of the employee's expenditure are they entitled to claim as an income tax deduction? The amount of the employee's expenditure is multiplied by the business percentage. This result is then reduced by the amount of the reimbursement. The resulting amount is their income tax deduction.	($500 × 80%) – $350 = $400 – $350 = $50
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The resulting figure is the amount by which the taxable value of the fringe benefit may be reduced.	$400 – $50 = $350
5	Finally, the taxable value of $350 may be reduced by $350.	$350 – $350 = 0

9.5 SUBSTANTIATION REQUIREMENTS

Where you use the otherwise deductible rule, you must have certain documentation to substantiate the extent to which the expense payment would have been 'otherwise deductible' to the employee. You must obtain the documentation from the employee before lodging the relevant FBT return or if you do not have to lodge a return, by 21 May. Where the documentation is a declaration by the employee, it must be in the approved form shown later in this chapter.

Travel diary

A 'travel diary' is a diary or similar document that must be obtained from the employee where:

- the employee's expense is incurred for travel within Australia for more than five nights and the travel is not exclusively for performing employment-related duties (the fact that the business travel requires the employee to stay away over a weekend will not, in itself, mean the trip is not undertaken exclusively in the course of their employment), or
- the employee's expense is incurred for travel outside Australia for more than five nights.

A travel diary shows the nature of each work or business activity, where and when it took place, the duration of the activity and the date the entry was made.

The requirement to obtain a travel diary is waived where the employee is performing employment-related duties as a member of an aircrew travelling outside Australia and the property provided is food or drink, or is for accommodation, or is otherwise incidental to the travel.

Employee declaration

You must obtain an employee declaration except where:

- the employee's expense (other than an expense incurred in respect of a car they own or lease) is incurred exclusively in the course of performing employment-related duties (for example, protective clothing, tools of trade)
- there is a requirement to keep a travel diary
- the requirement to keep a travel diary is waived because the employee is a member of an international aircrew, or
- the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

The declaration must be in a form approved by the Commissioner. The approved expense payment benefit declaration is shown here.

Expense payment benefit declaration

I _____ declare that
(name of the employee)

_____
(show nature of expense, eg telephone rental and/or calls)

were provided to me by or on behalf of my employer during the period from _____ 20 _____ to

_____ 20 _____ and the expenses were incurred by me for the following purpose(s)

_____

_____
(Please give sufficient information to demonstrate the extent to which the expenses were incurred by you for the purpose of earning your assessable income.)

I also declare that the percentage of those expenses incurred in earning my assessable income was _____ %.

Signed _____

Date _____

This declaration is also available on our website in PDF format.

Recurring fringe benefit declaration

The requirement to obtain an employee declaration is waived if the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

A fringe benefit is covered by a recurring fringe benefit declaration if:

- it is provided no later than five years after the day the declaration was made
- the deductible proportion of the benefit is not significantly less than the deductible proportion of the benefit for which the declaration was first provided (a difference of more than 10 percentage points is regarded as being significant), and
- it is 'identical' to the fringe benefit for which the declaration was first made.

Benefits are to be treated as being identical if they are the same in all respects except for any differences that:

- are minimal or insignificant
- relate to the value of the benefits, or
- relate to the deductible proportion of the benefits.

A recurring fringe benefit declaration is automatically revoked by a later declaration made for an identical benefit. This means that the earlier declaration applies to the first benefit and to any identical benefits provided before the later declaration was made. The later declaration applies to the benefit for which it was provided and to any identical benefits provided subsequently.

The declaration must be in a form approved in writing by the Commissioner. The employee must give you the declaration before the due date for lodging your FBT return or, if you do not have to lodge a return, by 21 May.

EXAMPLE: Recurring fringe benefit declaration

An employer regularly reimburses an employee for the cost of home telephone expenses. This is an expense payment fringe benefit. The employee gives the employer a recurring fringe benefit declaration which specifies that the deductible proportion of the expenses is 80%. The declaration will cover all further reimbursements in relation to telephone costs over the next five years if the employment-related use of the telephone is not less than 70%. If the employment-related use of the telephone drops to less than 70%, another declaration is required.

The approved recurring fringe benefit declaration is shown here.

Recurring expense payment fringe benefit declaration

I _____ declare that
(name of the employee)

_____
(show nature of expense, eg telephone rental and/or calls)

were provided to me by or on behalf of my employer during the period from

_____20 _____ to _____ 20_____ and the expenses were incurred by me for the following purpose(s)

_____

_____
(Please give sufficient information to demonstrate the extent to which the expenses were incurred by you for the purpose of earning your assessable income.)

I also declare that the percentage of those expenses incurred in earning my assessable income was _____ %.

I understand that this declaration is to apply to the above stated benefit and to any identical benefit for a period up to five years from the date of this declaration or until the stated percentage incurred in earning my assessable income decreases by more than 10 percentage points. This declaration will also be revoked if another recurring expense payment fringe benefit declaration is provided in respect of a subsequent identical benefit.

Signed _____

Date _____

Note

Identical benefits are the same in all respects except for any differences that are minimal or insignificant, or that relate to the value of the benefits, or to a change in the deductible proportion of 10 percentage points or less.

This declaration is also available on our website in PDF format.

9.6 REDUCTION IN TAXABLE VALUE WHERE AN EXPENSE THAT WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE IS INCURRED IN RELATION TO A CAR

Where an expense payment fringe benefit is provided in relation to a car owned or leased by the employee, there are special rules for determining how much, if any, of your expenditure would have been 'otherwise deductible' to the employee.

These special rules are actually three different methods of calculating the amount of the expense that hypothetically would have been income tax deductible to the employee (that is, step 2 in the four-step procedure explained in 9.4). The differences arise from the extent to which the car is used for business or employment-related purposes, and/or the type of evidence available to substantiate that use.

The first method is substantiated by means of logbook records and/or odometer records. The second and third methods are substantiated by an employee declaration only.

Chapter 21 contains full details and the appropriate declaration. The employee declaration shown in 9.5 is not suitable for an expense incurred in relation to a car.

9.7 OTHER REDUCTIONS IN TAXABLE VALUE

A number of fringe benefits attract concessional treatment. The concession is a reduction in the taxable value of the fringe benefit that results in a reduced amount of FBT, or even no FBT, being payable.

You calculate the taxable value of an expense payment fringe benefit in accordance with the valuation rules explained in 9.2 and 9.3. Where the otherwise deductible rule applies, you then reduce the taxable value as explained in 9.4.

If the fringe benefit is of a type that attracts any of the concessions listed below, you may reduce the taxable value further. In some instances, special conditions must be satisfied before the concession applies, for example, keeping certain records.

The following is a list of reductions that may apply to expense payment fringe benefits. Chapter 19 contains details of the reductions (the relevant reference for each concession is provided):

- in-house fringe benefits – tax-free threshold (19.5)
- remote area residential fuel (19.2)
- remote area housing assistance (19.2)
- remote area holiday transport (19.2)
- remote area home ownership schemes (19.2)
- overseas employment holiday transport (19.3)
- relocation transport – where transport is by employee's car (19.4)
- relocation – temporary accommodation and meals (19.4)
- employment interviews and selection tests – where transport is by employee's car (19.3)
- occupational health and migrant language training – where transport is by employee's car (19.3)
- living away from home – food provided (19.4)
- entertainment expense payments (19.5), and
- overseas employees – education of children (19.5).

9.8 EXEMPT EXPENSE PAYMENT BENEFITS

The following is a list of exemptions that may apply to expense payment fringe benefits. Chapter 20 contains details of the exemptions (the relevant reference for each exemption is provided):

- no-private-use declaration (20.3)
- living away from home accommodation (20.4)
- car expenses – expense payments (20.2)
- employment interviews and selection tests – transport (20.2)
- relocation – removal and storage of household effects (20.4)
- relocation – engagement of a relocation consultant (20.4)
- relocation – sale or acquisition of dwelling (20.4)
- relocation – connection or reconnection of certain utilities (20.4)
- living away from home – leasing of household goods (20.4)
- relocation – transport (20.4)
- motor vehicle parking (20.2)
- newspapers and periodicals (20.8)
- compensable work-related trauma (including workers' compensation insurance cover) (20.8)
- travel in a foreign country to obtain medical treatment (20.2)
- travel for compassionate reasons (20.2)
- occupational health and migrant language training (20.8)
- emergency assistance (20.8)
- minor benefits (20.8)
- long service awards (20.8)
- safety awards (20.8)
- Australian Traineeship System (20.8)
- provision of certain work-related items (20.8)
- membership fees and subscriptions (20.8)
- taxi travel (20.2), and
- provision of certain non-entertainment meals (20.7).

9.9 COMMON EXPENSES REIMBURSED OR PAID FOR BY EMPLOYERS

The following are some of the most common expenses reimbursed or paid for by employers and how they are treated for FBT purposes.

Car expenses

The payment or reimbursement of employee car expenses such as registration is an expense payment fringe benefit.

The taxable value is the amount you reimburse or pay, reduced by the otherwise deductible rule (see 9.4). There are special rules determining the 'otherwise deductible' amount for car expense payment benefits (see chapter 21).

Car expenses – reimbursed cents per kilometre

Reimbursement of car expenses on a rate per kilometre basis is not a fringe benefit, except in relation to remote area holiday transport (see 19.2) and overseas employment holiday transport (see 19.3). This is the exception to the general rule that reimbursement for expenses incurred by an employee gives rise to an expense payment fringe benefit.

The employee will need to show this reimbursement as income in their tax return. They can claim a deduction for any work-related car expenses and TaxPack has more information on the records they will need to do this.

Car parking expense payment benefits

Car parking fringe benefits arise when you provide car parking facilities for an employee and certain other conditions are met (see 16.1).

By contrast, a car parking expense payment benefit may arise if an employee incurs expenditure on car parking and:

- you subsequently reimburse the employee, or
- you pay for the car parking expenses on behalf of the employee

and the following conditions are satisfied:

- the car is parked at or near the employee's primary place of employment for more than four hours between 7.00am and 7.00pm on the day the expenses are incurred, and
- the car is used by the employee to travel between home and work on that day.

> ❗ In the case of car parking expense payment benefits, the proximity to a commercial parking station and the daily fee charged by it are not relevant.

Exempt employers

The following employers who are otherwise liable to pay FBT are exempt from car parking expense payment benefits.

- A scientific institution (other than an institution run for the purposes of profit or gain to its shareholders or members).
- A religious institution.
- A charitable institution.
- A public educational institution.
- A government body, but only in relation to an employee who is employed exclusively in, or in connection with, a public educational institution.

Health insurance premiums

The reimbursement or payment of employee health insurance premiums is an expense payment fringe benefit.

The taxable value is the amount you pay.

Higher Education Loan Programme (HELP) charges

The reimbursement or payment of employee HELP charges is an expense payment fringe benefit.

These charges are not 'otherwise deductible' to the employee and the full value is subject to FBT if paid by you.

Home/desktop computer

This is an expense payment fringe benefit and the taxable value is the amount you reimburse or pay.

> ❗ Even if the computer is used for work, the taxable value cannot be reduced under the otherwise deductible rule. This is because the computer is depreciated, not claimed as a one-off deduction in the year it was purchased.

Home mortgage

The taxable value of this benefit is the total amount you reimburse or pay.

Payments you make to an employee's mortgage account are an expense payment fringe benefit. However, payments made into an employee's home mortgage offset facility are not an expense payment fringe benefit, but rather, a payment of salary and wages.

Home telephone

The reimbursement or payment of employee home telephone costs is an expense payment fringe benefit. To work out the taxable value, you need to know the business use of the telephone and apply the otherwise deductible rule. The use of the otherwise deductible rule must be supported by certain records (see 9.5).

Laptop computer

This is an exempt benefit, if the expense payments in the FBT year are in relation to the employee's purchase of the one laptop computer (see 20.8).

The other types of exempt benefit that can arise from providing a laptop are as follows.

- Where you own the computer and give it to the employee to keep, this is a property benefit. This exemption is limited to one computer per employee per year.
- Where the computer belongs to you and the employee will have to return it, this is a residual benefit.

If the employee receives a laptop as part of a salary sacrifice arrangement, they are entitled to an income tax deduction for the decline in value of the asset to the extent they use it for a taxable purpose.

Mobile phone

If the mobile phone is primarily for use in the employee's employment, the benefit is an exempt benefit (see 20.8).

Personal credit card payments

This is an expense payment fringe benefit.

The taxable value is the amount you reimburse. This will be regardless of the items of expenditure incurred under the credit card agreement, that is purchases of goods, services or cash advances. If the goods or services bought by the employee are work-related, the taxable value can be reduced by the otherwise deductible rule (see 9.4).

Home rental expenses

Unless the home is in a remote area, this is an expense payment fringe benefit. The taxable value of this benefit is the total amount you reimburse or pay.

If you incur the rental expenses and the premises are the employee's usual place of residence, the benefit is a housing fringe benefit (see chapter 10).

If you incur the rental expenses and the premises are not the employee's usual place of residence, the benefit is a residual fringe benefit (see chapter 18).

If you incur the rental expenses for an employee who is required to live away from their usual place of residence, the benefit is an exempt benefit (see 20.4).

Self-education expenses

This is an expense payment fringe benefit.

The taxable value is the amount you pay. If the self-education expenses are work-related, the taxable value can be reduced by the otherwise deductible rule (see 9.4). The use of the otherwise deductible rule must be supported by certain records (see 9.5).

> HELP charges are not 'otherwise deductible' for the employee and the full value is subject to FBT if paid by you.

Unlike when claiming an income tax deduction, for FBT you do not have to reduce self-education expenses by $250 when working out the 'otherwise deductible' amount.

Taxi travel

Taxi travel is an exempt benefit if the travel:

- is a single trip beginning or ending at the employee's place of work, or
- arises as a result of sickness or injury to the employee.

Other non-work-related taxi travel generally gives rise to an expense payment fringe benefit. The taxable value is the amount you pay or reimburse.

> MORE INFORMATION
>
> - Taxation Ruling TR 92/15 – *Income tax and fringe benefits tax: the difference between an allowance and a reimbursement.*
> - Taxation Determination TD 93/90 – *Income tax: does the 'otherwise deductible rule' apply to reduce the taxable value of fringe benefits provided to associates of employees?*
> - Taxation Determination TD 93/96 – *Fringe benefits tax: does an employer have a liability under the Fringe Benefits Tax Assessment Act 1986 in relation to the payment of costs for a home telephone of an employee?*
> - Taxation Ruling TR 98/9 – *Income tax: deductibility of self-education expenses*.

HOUSING FRINGE BENEFITS 10

If you provide an employee with the right to use a unit of accommodation and that unit of accommodation is the usual place of residence of the employee, the right to use the unit of accommodation is a housing fringe benefit.

This chapter includes information about:

- the types of housing fringe benefits
- circumstances where you may be able to reduce the taxable value, and
- exemptions that may apply.

> ❗ Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

10.1 WHAT IS A HOUSING FRINGE BENEFIT?

A housing fringe benefit arises where an employee is provided with the right to use a unit of accommodation **and** the lease or licence which grants that right exists at a time when that unit of accommodation is the usual place of residence of the employee.

A unit of accommodation includes:

- a house, flat or home unit
- accommodation in a house, flat or home unit
- accommodation in a hotel, motel, guesthouse, bunkhouse or other living quarters
- a caravan or mobile home, or
- accommodation in a ship or other floating structure.

The employee does not have to have exclusive use of the unit of accommodation – the use of shared accommodation as a usual place of residence is a housing fringe benefit.

If the unit of accommodation is not the employee's usual place of residence, the right to use the unit is not a housing fringe benefit. However, it may give rise to a residual fringe benefit (see chapter 18).

10.2 BASIS OF VALUATION RULES

The taxable value of a housing fringe benefit is measured by reference to the market value of the right to occupy the unit of accommodation. Certain factors are disregarded in determining the market value of the right to occupy a unit of accommodation, namely:

- any rights of the occupant to have expenses associated with the occupancy (for example, electricity or gas) paid for by you (the employer) or someone else (where the right of occupancy carries with it the provision of gas or electricity without charge to the employee, the market rental value of the housing benefit would need to reflect that condition), and
- any onerous conditions of the occupancy relating to the occupant's employment (for example, being on call for duty).

This means, in effect, that the right to occupy the unit of accommodation is valued according to what it would command for rent in an open market situation, without taking into account any special employment conditions or associated expenses of the occupant that might be paid by another person. The object is to ascertain the market rental value by reference to the occupied property, and to disregard any matters particular to the person or people who occupy it.

In normal valuation practice, the market rental is what a willing but not anxious person would be prepared to pay the owner to occupy the particular property in its existing condition if it were placed on the open market for rent. Ordinarily, market rental is ascertained by comparing it with similar properties, on the basis that the best evidence of the market rental value of a property is found by examining rents obtained for comparable properties in the locality.

10.3 TYPES OF HOUSING FRINGE BENEFITS

For the purposes of calculating the taxable value, there are two categories of housing fringe benefit, namely:

- benefits provided outside Australia, and
- benefits provided in Australia.

10.4 TAXABLE VALUE OF A HOUSING FRINGE BENEFIT PROVIDED OUTSIDE AUSTRALIA

The taxable value is the market rental value of the right to use the accommodation, reduced by any rent or other consideration paid by the employee. The market rental value must be calculated by reference to the period during the FBT year when the employee had the right to use the accommodation.

Accommodation provided in an external Australian Territory (other than Christmas Island and the Cocos (Keeling) Islands) is a housing benefit provided outside Australia.

10.5 TAXABLE VALUE OF A HOUSING FRINGE BENEFIT PROVIDED IN AUSTRALIA

This category of benefit does not include accommodation provided in a remote area of Australia. Remote area housing benefits are exempt from FBT (see 10.8).

There are two sub-categories of these benefits for valuation purposes, namely:

- where the person providing the accommodation is carrying on a business of providing the same accommodation to the public and the unit of accommodation is a caravan or mobile home, or is in a hotel, motel, hostel or guesthouse, and
- any other accommodation.

Accommodation in a caravan, mobile home, hotel, motel, hostel or guesthouse where the person providing the benefit is carrying on a business of providing such accommodation to the public

The taxable value of the right to use a unit of accommodation, that is a caravan or mobile home, or is in a hotel, motel, hostel or guesthouse, is the market rental value of the accommodation, reduced by any rent or other consideration paid by the employee. The market rental value must be calculated by reference to the period during the FBT year when the employee had the right to use the accommodation.

If the accommodation is provided to an employee of the hotel, caravan park etc, and is identical or similar to that provided to paying guests, the taxable value is 75% of the market rental value, less the amount of any rent paid.

For example, consider an employee who manages a caravan park. If the employee lives rent-free in a house in the caravan park, the taxable value is the market rental value of that house. However, if the employee's accommodation is in a mobile home and the caravan park has other similar mobile homes that are let to customers, the taxable value is 75% of the market rental value of the mobile home.

In determining the market rental value in these cases, it is not appropriate to use the daily rate charged to casual guests. Rather, you need to establish an appropriate long-stay occupancy rate. One acceptable measure is to determine the market rental value by reference to rentals charged for equivalent accommodation in the nearest residential quarter (for example, the rent charged for a similar apartment). As an alternative, you could adopt an amount equal to 15% of the daily rate charged to casual guests.

Other accommodation

The taxable value of accommodation other than that described above is the market rental value of the accommodation, reduced by any rent or other consideration paid by the employee. You must calculate the market rental value by reference to the period during the FBT year when the employee had the right to use the accommodation.

As an alternative to establishing the market rental value every year, you may base the taxable value for the second and subsequent years on the first year's market rental value. This requires calculating an annual rental value for the first year and thereafter applying an inflation factor. The inflation factor can be obtained from the rent sub-group of the national consumer price index, and is published each year by the Tax Office. You can use this alternative method for a maximum of nine consecutive years.

If an employee occupies the accommodation for only part of a year, you have to 'annualise' the market rental value before applying the inflation factor.

EXAMPLE: Single employee occupying house

An employee occupies a house for 121 days of the year.

If the market rental value for that period is $2,000, the annualised market rental value is:

$2,000 ÷ 121 × 365 = $6,033.05

EXAMPLE: Several employees occupying house

An employee occupied a house owned by the employer from 1 July 2004 to 31 March 2005 (that is, 274 days). The market rental value of the house for that period was $8,640. The house is located in New South Wales.

Another employee occupied the house from 1 January 2006 to 31 March 2006 (that is, 90 days). The indexation factor for the state of New South Wales for the year ended 31 March 2006 was 1.018.

A third employee occupies the house from 1 August 2006 to 31 March 2007 (that is, 243 days). The indexation factor for New South Wales for the year ended 31 March 2007 is 1.015.

The house was left vacant except for the periods described above.

No rent was paid by any of the employees.

The taxable value of the benefit provided to the first employee (in the 2005 FBT year) was $8,640.

The taxable value of the benefit provided to the second employee (in the 2006 FBT year) was $2,889.03. This was determined using the following steps.

Step	Action	Result
1	Obtain the annual rental value equivalent of the accommodation provided in the first year.	$11,509.48 (that is, $8,640 × 365/274)
2	Determine the indexed rental value for the 2006 year.	$11,509.48 × 1.018 = $11,716.65
3	Determine the taxable value of the accommodation provided to the employee according to the period of occupancy.	90/365 × $11,716.65 = $2,889.03

The taxable value of the benefit provided to the third employee (in the 2007 FBT year) was $7,917.39. This was determined using the following steps.

Step	Action	Result
1	Index the previous year's (that is, 2006) annual rental value by the published indexation factor.	$11,716.65 × 1.015 = $11,892.39
2	Determine the taxable value of the accommodation provided to the employee according to the period of occupancy.	243/365 × $11,892.39 = $7,917.39

❗ Where the year is a leap year, the period of occupancy is divided by 366.

Where substantial improvements to the particular unit of accommodation could be expected to have increased the market rental value by at least 10%, you must determine the value of the housing benefit by reference to the 'new' market rental value. You also have to find a 'new' market rental value if alterations reduce the market rental value by at least 10%.

If the accommodation was occupied at different times during the first year by different employees, and the market rental values differed, the annual rental value for indexation purposes is the weighted average of the annual equivalent of the market rental value of each employee's period of occupancy.

10.6 ACCOMMODATION THAT IS NOT THE USUAL PLACE OF RESIDENCE

The housing fringe benefit rules apply only to accommodation that is the employee's usual place of residence. The rules do not apply where the employee is:

- living away from their usual place of residence in order to carry out employment-related duties, or
- travelling in the course of performing employment-related duties.

In the former case, the benefit may be an exempt benefit. In the latter case, the 'otherwise deductible' rule may apply to the taxable value of the expense payment fringe benefit or residual fringe benefit.

10.7 REDUCTIONS IN TAXABLE VALUE

There are a number of circumstances where you may reduce the taxable value of a housing fringe benefit. These are outlined below.

Relocation – temporary accommodation

This concession reduces the taxable value of fringe benefits arising from providing temporary accommodation (including household goods) to an employee who changes their usual place of residence during employment, or to start employment.

Temporary accommodation at former location

The concession applies to temporary accommodation at the employee's former location only if the temporary accommodation is necessary because the former home is unavailable or unsuitable for occupancy because of the relocation (for example, furniture removal). In that case, the concession applies to the temporary accommodation for a maximum 21-day period ending on the day the employee starts work at the new location.

Temporary accommodation at new location

Where the temporary accommodation is at the new location, the employee must start to make sustained and reasonable efforts to buy or lease suitable long-term accommodation as soon as reasonably practicable after starting work at the new location.

The concession is limited to an occupancy period that begins seven days before the day the employee starts work at the new location and ends when the employee could reasonably be expected to occupy the home after it has been purchased or leased.

The concession is ordinarily limited to a maximum occupancy period of four months. However, it may apply for a maximum of 12 months, as follows.

Where the employee gives you a declaration (see next page) outlining their efforts to find suitable long-term accommodation, the concession may apply for a maximum of six months.

Where the employee:

- owned a home at the former location but sold it within six months of starting work at the new location and, during that period, attempted to buy a home at the new location, and
- gives you a declaration (see next page) outlining their efforts to find suitable long-term accommodation.

In either case, the concession will end before the four months, six months or 12 months elapse if the employee stops making reasonable and sustained efforts to buy or lease suitable long-term accommodation.

The declaration must be in a form approved by the Commissioner. The approved temporary accommodation relating to relocation declaration is shown on the next page.

Temporary accommodation relating to relocation declaration

Sections A and D of the form must be completed plus either of sections B and C

Section A

I _____ declare that for the purpose of commencing employment with
(name)

_____ at _____
(name of employer) *(locality/address of employer)*

I commenced sustained efforts to acquire a long term place of residence on _____ 20_____ and
(date search-period commenced)

> Complete either section B or section C, whichever is applicable, where a period in excess of four months has elapsed since the search commenced.

Section B

If the employee did not have a proprietary interest in their former residence:

(Where the unit of accommodation is occupied on a date subsequent to completion of the initial four-month search period but prior to six months after commencement of the initial search period)

I entered into a contract to permanently occupy a unit of accommodation on _____ 20_____
(date)

and commenced occupation (on a date subsequent to the completion of the initial four-month search period but prior to six months after the commencement of the initial search period) of the unit of accommodation on _____ 20_____, **or**
(date)

(Where the employee is unable to locate a suitable permanent unit of accommodation after six months from the commencement of the initial search period)

As at _____ 20____ despite sustained efforts, I have been unable to locate a suitable permanent unit of accommodation, **or**
(date six months from the commencement of the initial search period)

Section C

If the employee held a proprietary interest in their former residence:

I entered into a contract to sell my former residence on _____ 20_____ and
(date within six months of the commencement of the initial search period)

Either (indicate whichever is appropriate):

☐ commenced occupation of a unit of accommodation on _____ 20_____ which I intend to occupy as my new long-term residence, **or**
(date)

☐ despite sustained efforts, I have been unable to locate suitable long-term accommodation within a period of 12 months from when my initial search commenced.

Section D

Temporary accommodation at _____
(address)

was required for the period _____ 20_____ to _____ 20_____ solely because I was required to change
(date) *(date)*

my usual place of residence in order to perform the duties of my employment.

Signed _____ Date _____

> This declaration is also available on our website in PDF format.

10.8 EXEMPT HOUSING BENEFITS

Remote area housing benefits

A remote area housing benefit is an exempt benefit under section 58ZC of the *Fringe Benefits Tax Assessment Act 1986*.

A housing benefit qualifies as a remote area housing benefit if each of the following conditions are satisfied.

a for the whole of the tenancy period, the unit of accommodation is in a remote area (that is, it is not located in or adjacent to an eligible urban area)

b for the whole of the tenancy period, the accommodation is occupied by a person who is your current employee, and the usual place of employment of the employee is in the remote area, and

c it is customary in that industry for employers to provide free or subsidised residential accommodation to employees.

> From 1 April 2006, condition c no longer applies.

As well as the above conditions, it must also be necessary for you to provide accommodation for employees or to arrange to provide such accommodation because:

- the nature of your business is such that employees are liable to move frequently from one residential location to another
- there is insufficient suitable residential accommodation otherwise available at or near the place or places where the employees are employed, or
- it is customary for employers in that industry to provide free or subsidised accommodation for employees.

For most employers, accommodation is in a remote area if it is not in or near an urban centre. Accommodation is classified as being near or adjacent to an eligible urban area and therefore **not** remote where it is situated:

- less than 40 kilometres from an eligible urban area with a census population of 14,000 to less than 130,000, or
- less than 100 kilometres from an eligible urban area with a census population of 130,000 or more.

If the accommodation is in zone A or B (for income tax purposes), to be remote it must be located:

- at least 40 kilometres from an eligible urban area with a census population of 28,000 to less than 130,000, or
- at least 100 kilometres from an eligible urban area with a census population of 130,000 or more.

The population figures are based on the 1981 Census.

> The Government has announced that from 1 April 2007, the definition of remote will be broadened where the shortest practicable route involves travel over water. Where the shortest practicable route involves travel solely over water, the required distance between a location and the nearest population centre will be halved. Where the shortest practicable route involves travel over both land and water, the broadened definition of remote will allow for apportionment.

Where the circumstances warrant it, the Commissioner has a discretion to treat a person who resides or works in an area adjacent to an eligible urban area as residing or working outside that area if people who live or work near that person are outside the area.

Where free water is provided to an employee in accordance with a residential tenancy agreement between you and the employee, the water will form part of the housing benefit on which the remote area housing fringe benefit is based. Therefore, the provision of water in this instance is also exempt from FBT.

Extension of the remote area housing exemption for some regional employers

An extended exemption applies under subsection 140(1A) of the *Fringe Benefits Tax Assessment Act 1986* to housing benefits provided for employees of:

- a public hospital
- a government body where the duties of the employee are exclusively performed in, or in connection with, a public hospital or a non-profit hospital
- a hospital carried on by a non-profit society or a non-profit association
- a charitable institution
- a public ambulance service, or
- a police service.

For these employers, regardless of whether or not they are located in a zone A or B area (for income tax purposes), an employee's housing will **no longer** be considered adjacent to an eligible urban area (and will therefore be remote), where it is situated less than 40 kilometres via the shortest practical surface route from the centre point of an eligible urban area of less than 130,000 people.

For eligible urban areas of 130,000 or more, an area adjacent to an eligible urban area (and therefore **not** remote) will remain as being within 100 kilometres via the shortest practical surface route from that eligible urban area's centre point.

> MORE INFORMATION

- Law Administration Practice Statement PS LA 2000/6 – Fringe benefits tax exemption of remote area housing.
- Miscellaneous Tax Ruling MT 2025 – Fringe benefits tax: guidelines for valuation of housing fringe benefits.
- Taxation Determination TD 2005/10 – Fringe benefits tax: For the purposes of section 28 of the *Fringe Benefits Tax Assessment Act 1986* what are the indexation factors for valuing non-remote housing for the fringe benefits tax year commencing on 1 April 2005?
- Taxation Determination TD 2006/14 – Fringe benefits tax: for the purposes of section 28 of the *Fringe Benefits Tax Assessment Act 1986* what are the indexation factors for valuing non-remote housing for the fringe benefits tax year commencing on 1 April 2006?

LIVING AWAY FROM HOME ALLOWANCE FRINGE BENEFITS

11

This chapter explains:

- what a living away from home allowance fringe benefit is
- the term 'usual place of residence'
- how to determine whether an employee is living away from home
- how to calculate the various components to arrive at the taxable value
- record keeping requirements, and
- the differences between a living away from home allowance and a travelling allowance.

Unlike other types of fringe benefits, a living away from home allowance fringe benefit can only be provided by the employer to the employee.

11.1 WHAT IS A LIVING AWAY FROM HOME ALLOWANCE FRINGE BENEFIT?

The payment of a living away from home allowance (LAFHA) is a living away from home allowance fringe benefit.

For FBT purposes, a LAFHA is:

- an allowance you (the employer) pay to an employee, and
- to compensate for additional expenses incurred and any disadvantages suffered,

because the employee is required to live away from their usual place of residence in order to perform their employment-related duties.

The term 'additional expenses' does not include expenses the employee would be entitled to claim as an income tax deduction.

Usual place of residence

An employee is regarded as living away from their usual place of residence if they would have continued to live at the former place if they did not have to work temporarily in a different locality. The residence does not have to be the employee's permanent place of residence.

Employees who move to a new locality with an intention to return to their old locality at the end of the appointment would generally be treated as living away from their usual place of residence.

EXAMPLE: Former home continues to be usual place of residence

An employee is transferred by his employer from Sydney to Newcastle to help install a new item of plant. For the duration of this appointment, the employee's immediate family continues to live at his former address, where he returns every weekend.

EXAMPLE: Former home has ceased to be usual place of residence

An employee is transferred by his employer from Sydney to Newcastle. Just before the transfer, the employee separated from his wife, who continues to reside at the former address with the employee's children. Apart from irregular visits to see the children, the employee will not be returning to his former residence.

Practical guidelines

For a LAFHA situation to arise in the first example, there would be some intention or expectation that you would provide some form of compensation to the employee. It would also be expected that there would have been discussions between you and the employee about the basis (monetary or otherwise) on which the allowance was to be calculated. In some cases there may already be a basis under some pre-existing industrial award.

The principles of determining whether an employee is living away from their usual place of residence have been established over the years by case law decisions. Whether or not an employee is living away from home then will depend on the facts of each case.

Factors such as the lifestyle of the employee, residency status, type of profession and industry often need to be taken into consideration.

Other relevant details may include whether personal details such as the employee's driver's licence or electoral enrolment have been changed; whether the former house was being looked after by relatives or friends for the time the employee was at the new locality; or whether the former residence was being rented out for the time they were at the new locality.

Some employees do not have a fixed usual place of residence because of the transitory nature of their lifestyle, which means that their usual place of residence is wherever they happen to sleep at night. An example would be employees who follow a job from construction site to construction site and have no permanent place of residence.

Examples of employees on appointments of finite duration who will generally be living away from their usual place of residence are foreign nationals employed in Australia (expatriate employees) and Australian residents stationed in a foreign country for a time (for example, export consultants, diplomats and immigration officials). In the case of the expatriate employees having to reside in Australia for the term of their employment, each year the Tax Office publishes a taxation determination outlining what is considered a reasonable food component.

The same applies where an employee transfers to a new locality within Australia on an appointment of fixed duration, provided the permanent job location does not change. An example would be an arrangement where an employee transfers to a branch office of the employer in another state for a two-year or three-year term on the basis that they will return to the permanent position at the end of that time. The employee would be regarded as living away from the usual place of residence provided that they intend to return there at the end of the term of the transfer.

On the other hand, certain kinds of occupations have a career structure that brings with it the necessity to accept regular transfers from one location to another, for example, police officers, school teachers, members of the defence force. Employees in these situations are generally not treated as living away from home when they move or transfer to live near their current workplace. This is the case even if the employee owns a home elsewhere in which they eventually intend to reside.

The general presumption is that a person's usual place of residence will be close to where they are permanently employed.

Generally, employees in the following kind of situation would be regarded as living away from a usual place of residence.

- Construction workers living in camps, barracks or huts.
- Oil industry employees living on offshore oil rigs.
- Marine industry employees living on board vessels.
- Trainee employees, such as trainee teachers living away from home in order to undergo training courses of extended duration. Employees attending short-term staff training courses would generally be treated as travelling in the course of their employment.

Employees who work on an oil rig, or other petroleum or gas installation at sea, are generally provided with residential accommodation at or near the worksite. An allowance you pay in such circumstances to compensate employees for disadvantages suffered from living away from their usual place of residence is a LAFHA for FBT purposes, provided the allowance is expressly stated to be a LAFHA.

11.2 OTHER LIVING AWAY FROM HOME FRINGE BENEFITS

Rather than paying a cash LAFHA while an employee is required to live away from their usual home, you may provide accommodation and/or food to the employee. Alternatively, you may reimburse the employee for these expenses. In these instances, although the benefits must be valued by reference to the valuation rule for the particular type of benefit, the tax liability is essentially the same. The following reduction and exemptions may apply in these circumstances:

- living away from home – food provided (19.4), and
- living away from home – accommodation (20.4).

11.3 TAXABLE VALUE

The taxable value is the amount of the allowance paid, less:

- the exempt accommodation component, and/or
- the exempt food component.

The taxable value will also include that part of the allowance paid for other disadvantages suffered because your employee is required to live away from home.

11.4 EXEMPT ACCOMMODATION COMPONENT

The exempt accommodation component of a LAFHA is so much of the allowance that is in the nature of compensation for additional expenses on accommodation, that the employee could **reasonably** be expected to incur at the alternate location.

Where the allowance paid includes an amount for accommodation which is not reasonable, that part of the allowance will be included in the taxable value of the LAFHA.

Determining reasonable accommodation costs

There are no strict guidelines concerning how the amount of reasonable accommodation costs should be calculated.

Factors you could take into account when determining the accommodation costs include:

- whether the employee will be accompanied by family members
- the position held by the employee in the workplace
- the location where the employee will be living
- whether or not the accommodation will be furnished, and
- the employee's current living standards.

Examples of ways you could determine accommodation costs include:

- using the accommodation expenditure for an employee with similar circumstances in the alternate location, or
- using indexes and guidelines provided by the Australian Bureau of Statistics or commercial organisations to estimate the costs of accommodation in a particular location.

11.5 EXEMPT FOOD COMPONENT

The exempt food component of a LAFHA is the amount of the allowance paid to compensate the employee for additional food costs because the employee is required to live away from their usual place of residence.

To calculate the exempt food component, you must first calculate the food component of the LAFHA. The food component is the amount of the LAFHA that is compensation for expenses the employee could **reasonably** be expected to incur on food and drink.

Where the allowance paid includes an amount for food which is not reasonable, that part of the allowance will be included in the taxable value of the LAFHA.

Determining the food component

The food component of the allowance **must** be calculated before the LAFHA is paid to your employee. The food component of the allowance can be calculated as:

- compensation for total food costs
- compensation for increased food costs where the estimated home food costs equals or exceeds the statutory food amount, or
- compensation for increased food costs where the estimated home food costs are less than the statutory amount.

There are no strict guidelines as to how the food component is calculated, provided the amount is reasonable. Factors you could take into account when determining the food component include:

- the composition of the employee's family. That is, the number of adults (aged 12 years or more) and the number of children (under 12 years of age) at the start of the FBT year,
- the costs of food in the alternate location, and
- the usual food expenditure in the home location (the statutory food amount).

It is assumed that expenditure on food at the employee's usual residence is ordinarily $42 a week for each adult and $21 a week for each child. (For this purpose, an adult is a person who had attained the age of 12 years before the beginning of the FBT year.) These rates are called the **statutory food amount**.

Examples of ways you could determine reasonable food costs for your employee in the alternate location include:

- monitoring the food expenditure for a family in the alternate location over a representative period (for example, 12 weeks),
- using indexes and guidelines provided by the Australian Bureau of Statistics or commercial organisations to estimate the additional food costs in a particular location, or
- using the rates published by the Tax Office for expatriates, providing they are reasonable in the employee's circumstances.

Expatriate employees

An expatriate employee is a foreign national employed in Australia.

Each year (usually in April) the Commissioner publishes a tax determination which sets out acceptable amounts for the reasonable food component of a LAFHA for expatriate employees.

11.6 CALCULATING THE VALUE OF THE EXEMPT FOOD COMPONENT

The way the value of the exempt food component is calculated depends upon how the food component of the allowance was calculated (see 11.5).

Allowance includes compensation for total food costs

Where the allowance includes compensation for the employee's total food costs, the value of the exempt food component is the amount of the food component of the LAFHA less the statutory food amount.

EXAMPLE

An employee living away from his family is paid a LAFHA of $440 per week. Of that allowance:

- $200 is reasonable compensation for the cost of accommodation
- $160 represents reasonable compensation for the total cost of food while away from home, and
- the remaining $80 is compensation for disadvantages associated with having to live apart from family and in a town without facilities that would normally be enjoyed at home.

The taxable value is calculated as follows:

Total allowance		$440
Less:		
Exempt accommodation component and	$200	
Exempt food component*	$118	$318
Taxable value		**$122**

(*Food component less statutory food amount, that is $160 – $42 = $118)

The taxable value consists of the $80 paid for disadvantages suffered for living away from home + $42 statutory food amount.

Allowance includes compensation for increased food costs

Where:

- the amount of the food component has been reduced by the estimated home food costs before being paid to the employee, and
- the amount of the reduction is the same or more than the statutory food amount,

the whole amount of the food component of the LAFHA is exempt from FBT.

Because the effect of the valuation rules is to tax only that part of the food component that covers expenses for food that the employee would, in any event, have incurred while living at home, there is no tax payable on the food component in this circumstance.

EXAMPLE

An employee living away from his family is paid a LAFHA of $398 per week. Of that allowance:

- $200 is reasonable compensation for the cost of accommodation
- $118 represents reasonable compensation for the additional food costs only while away from home, and
- the remaining $80 is compensation for disadvantages associated with having to live apart from family and in a town without facilities that would normally be enjoyed at home.

In this example, the allowance includes compensation for additional food costs. The employer calculated the $118 food component by deducting from the total food costs of $160 an amount of $42 which was estimated to be the normal home food consumption costs.

The taxable value is calculated as follows:

Total allowance		$398
Less:		
Exempt accommodation component and	$200	
Exempt food component	$118*	$318
Taxable value		**$80**

(*In this case the food component is the exempt food component).

The taxable value consists of the $80 paid for disadvantages suffered for living away from home.

Food allowance is less than the statutory food amount

If you estimate that the amount of your employee's normal home food costs are less than the statutory food amount when calculating the allowance, the exempt food component is the food component of the LAFHA reduced by the excess of the statutory food amount over the estimated home food costs.

EXAMPLE

An employee living away from his family is paid a LAFHA of $325 per week. Of that allowance:

- $150 is reasonable compensation for the cost of accommodation
- $125 represents reasonable compensation for the additional food costs while away from home, and
- the remaining $50 is compensation for disadvantages associated with having to live apart from family and in a town without facilities that would normally be enjoyed at home.

In this example, the allowance includes compensation for additional food costs. The employer calculated the $125 food component by deducting from the total food costs of $160 an amount of $35, which was estimated as the normal home food consumption costs.

The taxable value is calculated as follows:

Total allowance		$325
Less:		
Exempt accommodation component	$150	
Exempt food component	$118*	$268
Taxable value		**$57**

(* In this case the exempt food component is the food component, $125, reduced by the statutory food amount less the estimated home food cost which is $7, that is $42 – $35)

The taxable value consists of the $50 for disadvantages paid while living away from home plus the $7 difference between the estimated home food costs and the statutory food amount.

11.7 RECORD KEEPING REQUIREMENTS

It is important to note that to reduce the LAFHA by the exempt accommodation component and/or the exempt food component, you must obtain from the employee a declaration setting out their usual place of residence and actual place of residence during the period of the allowance. If a declaration is not obtained, the whole amount of the LAFHA is taxable for FBT purposes.

The declaration must be in a form approved by the Commissioner. The approved LAFHA declaration is shown below. (Declarations are not required from employees employed under 'fly-in fly-out' arrangements or on offshore oil rigs.) For more information about record keeping requirements, see Chapter 4.

Living away from home declaration

I _____ declare that
(employee name)

during the period _____ 20_____ to

_____ 20_____ I was required to live away from my usual place of residence in order to perform the duties of my employment and that during that period my usual place of residence was

_____
(state place where you usually live)

and the nature of that residence was

_____ and, during the period the place at which I actually resided was

_____

_____
(state all addresses at which you resided while away from home in the period stated above)

Signature _____

Date _____

11.8 DIFFERENCE BETWEEN A LIVING AWAY FROM HOME ALLOWANCE AND A TRAVELLING ALLOWANCE

It is important to determine whether an allowance paid by you to your employee is a LAFHA or a travelling allowance, because they have different taxation treatments. LAFHAs are a fringe benefit, whereas travelling allowances are part of the employee's assessable income and are not fringe benefits.

The following table sets out some of the indicators of whether the allowance is a LAFHA or travelling allowance:

Living away from home allowances	Travelling allowances
Paid where employee has taken up temporary residence away from their usual place of residence in order to carry out duties at new, but temporary, workplace.	Paid because employee is travelling in the course of performing his/her job.
There is a change of job location in relation to payment of allowance.	No change of job location in relation to payment of allowance.
Where an employee is living away from home, it is more common for employee to be accompanied by spouse and family.	Where an employee is travelling, they are generally not accompanied by spouse and family.
Paid for longer periods.	Paid for short periods.
Change of residence (temporarily) in relation to payment of allowance.	No change of residence.

The indicators above are guidelines only and no one indicator determines the nature of the allowance received. For example, a travelling allowance might be paid to a commercial traveller almost continuously, whereas another employee may receive a LAFHA for only a month or so.

There may be circumstances when an employee is away from their home base for a brief period in which it may be difficult to determine whether the employee is living away from home or travelling. As a practical general rule, where the period away does not exceed 21 days, the allowance will be treated as a travelling allowance rather than a LAFHA.

MORE INFORMATION

- Miscellaneous Tax Ruling MT 2030 – Fringe benefits tax: living-away-from-home allowance benefits
- Miscellaneous Tax Ruling MT 2040 – Fringe benefits tax: living-away-from-home allowance benefits: reasonable food component for expatriate employees
- Taxation Determination TD 94/14 – Fringe benefits tax: does the payment of a 'location allowance' to an employee by an employer constitute the provision of a 'living-away-from-home allowance benefit' under section 30 of the *Fringe Benefits Tax Assessment Act 1986 (FBTAA)*?
- Taxation Determination TD 96/7 – Fringe benefits tax: is fringe benefits tax (FBT) payable on meals and accommodation provided to employees who work at remote construction sites, where the accommodation is not the usual place of residence of the employee?
- Taxation Determination TD 2005/12 – Fringe benefits tax: for the purposes of Division 7 of Part III of the *Fringe Benefits Tax Assessment Act 1986*, what amount represents a reasonable food component of a living-away-from-home allowance for expatriate employees for the fringe benefits tax year commencing on 1 April 2005?
- Taxation Determination TD 2006/23 – Fringe benefits tax: for the purposes of Division 7 of Part III of the *Fringe Benefits Tax Assessment Act 1986*, what amount represents a reasonable food component of a living-away-from-home allowance for expatriate employees for the fringe benefits tax year commencing on 1 April 2006?

AIRLINE TRANSPORT FRINGE BENEFITS

12

This chapter describes what an airline fringe benefit is and how to value it using the stand-by value. Reductions to the taxable value as a result of the otherwise deductible rule and in-house concessions are also explained.

Airline transport fringe benefits are only applicable to employees (or their associates) of airlines or travel agents.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

12.1 WHAT IS AN AIRLINE TRANSPORT FRINGE BENEFIT?

An airline transport fringe benefit arises where employees (or their associates) of airlines or travel agents are provided with free or discounted air travel that is subject to the stand-by restrictions customarily applying to employees in the airline industry.

Free or discounted air travel that is not subject to such restrictions is a residual fringe benefit.

12.2 TAXABLE VALUE

The taxable value of the fringe benefit is the stand-by value, less the employee contribution.

12.3 STAND-BY VALUE

Domestic travel

Where the domestic travel is:

- on a scheduled passenger air service operated by the benefit provider, the stand-by value is 37.5% of the lowest publicly advertised economy air fare charged by the provider, at or about that time, for travel over that route
- not on a scheduled passenger air service operated by the provider, the stand-by value is 37.5% of the lowest publicly advertised economy air fare charged by a carrier, at or about that time, for travel over that route, or
- not provided on scheduled passenger air service operated by the provider and no carrier operates a scheduled passenger air service over that route at or about that time, but a combination of scheduled passenger air services operated by a carrier or carriers would enable a person to travel that route, the stand-by value is 37.5% of the lowest combination of publicly advertised economy air fares charged by carriers at or about that time, for travel over that route.

The lowest publicly advertised air fare can be obtained from any published material produced by airlines that is available to the public.

In any other case, the stand-by value is 75% of the market value, at or about that time, for travel over that domestic route.

International travel

Where the international travel is:

- on a scheduled passenger air service operated by the benefit provider, the stand-by value is 37.5% of the lowest published air fare of the provider for that international route.
- not on a scheduled passenger air service operated by the provider, the stand-by value is 37.5% of the lowest economy air fare charged by a carrier, at or about that time, for travel over that international route, or
- not on a scheduled passenger air service operated by the provider and no carrier operates a scheduled passenger air service over that route at or about that time, but a combination of scheduled passenger air services operated by a carrier or carriers would enable a person to travel that route, the stand-by value is 37.5% of the lowest combination of economy air fares charged by carriers at or about that time, for travel over that route.

The lowest published fare for these purposes is the lowest fare published in Australia (including advance purchase, but not group discounts) the carrier charges for travel over that route in the 12 months before the end of the FBT year.

In any other case, the stand-by value is 75% of the market value, at or about that time, for travel over that international route.

12.4 REDUCTION IN TAXABLE VALUE WHERE EXPENDITURE WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE

The taxable value of an airline transport fringe benefit may be reduced in accordance with the 'otherwise deductible' rule, but only if the recipient of the benefit is the employee. Broadly, this means that the taxable value may be reduced by the amount the employee would have been entitled to claim as an income tax deduction if both of the following conditions are satisfied:

- the seat on the airline flight is not provided as a fringe benefit, and
- the employee acts as a consumer or member of the public in purchasing the ticket.

For example, if an employee bought a seat on an airline flight in order to travel to perform employment-related duties, the cost would be wholly deductible for income tax purposes. Under the otherwise deductible rule, if you (the employer) provided the ticket to the employee so they could travel to perform employment-related duties, the taxable value of the fringe benefit would be nil, regardless of the amount of employee contribution you required.

Applying the otherwise deductible rule produces different results, depending on whether any employee contribution was intended to be for the private element of the fringe benefit. This is because the employee is entitled to an income tax deduction for expenditure incurred on the portion of the fringe benefit used to derive assessable income, but not for expenditure incurred on the portion used for private or domestic purposes.

Commonly, the taxable value of an airline transport fringe benefit is wholly 'otherwise deductible' or wholly taxable. If it is wholly 'otherwise deductible', there is no FBT payable and if it is wholly taxable, there is no reduction. However, the taxable value of an airline transport fringe benefit may be partially 'otherwise deductible' (see 18.7 for an explanation of how the otherwise deductible rule is applied for residual fringe benefits).

12.5 SUBSTANTIATION REQUIREMENTS

If you use the otherwise deductible rule, you must have documentation to substantiate the extent to which the purchase price of the airline ticket would have been 'otherwise deductible' to the employee. You must obtain the documentation from the employee before lodging the relevant FBT return. Where the documentation is a declaration by the employee, it must be in the approved form shown on the next page.

Travel diary

A 'travel diary' is a diary or similar document that must be obtained from the employee where:

- the airline transport is provided for travel within Australia for more than five nights and the travel is not exclusively for performing employment-related duties (the fact that the business travel requires the employee to stay away over a weekend will not, in itself, mean the trip is not undertaken exclusively in the course of their employment), or
- the airline transport fringe benefit is provided for travel outside Australia for more than five nights.

A travel diary shows the nature of each work or business activity, where and when it took place, the duration of the activity and the date the entry was made.

The requirement to obtain a travel diary is waived where the employee is performing employment-related duties as a member of an aircrew travelling outside Australia and the residual benefit is for accommodation, or is otherwise incidental to the travel.

Employee declaration

You must obtain an employee declaration except where:

- the airline transport fringe benefit is used exclusively in the course of performing employment activities
- there is a requirement to keep a travel diary, or
- the requirement to keep a travel diary is waived because the employee is a member of an international aircrew.

The declaration must be in a form approved by the Commissioner. The approved airline transport benefit declaration is shown on the next page.

Airline transport benefit declaration

I _____
(name of employee)

declare that airline transport provided to me during the period _____ 20_____ to _____ 20_____ was used by me for travel undertaken for the following purpose(s)

_____

_____
(Please give sufficient details to demonstrate the extent to which the travel was undertaken by you for the purpose of earning your assessable income.)

I also declare that, had I incurred the cost of this transport at its market value, I would have been entitled to claim an income tax deduction equal to _____ % of the cost.

Signature_____

Date_____

This declaration is available on our website in PDF format.

12.6 CONCESSIONS

The taxable value of an airline transport fringe benefit may qualify for the 'in-house' benefits concession of up to $500, as explained in 19.5.

The Government has announced that from 1 April 2007, the in-house fringe benefits tax-free threshold will increase from $500 to $1,000.

13 BOARD FRINGE BENEFITS

This chapter explains:

- what a board fringe benefit is
- which meals are not board fringe benefits
- exempt board benefits, and
- how to calculate the taxable value of a board fringe benefit.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

13.1 WHAT IS A BOARD FRINGE BENEFIT?

Providing a meal to an employee is a board fringe benefit if the employee is entitled to have accommodation provided and the following conditions are satisfied.

- There is an entitlement under an industrial award to be provided with at least two meals a day, or under an employment arrangement at least two meals a day are ordinarily provided.
- The meal is supplied by you (the employer) (if you are a company, the meal may be supplied by a related company in a wholly owned group).
- The meal is cooked or prepared on your (or related company's) premises or on a worksite or place adjacent to a worksite.
- The meal is supplied on your premises (or the worksite) or on the premises of a related company.

Some common examples of meals that may be board fringe benefits are:

- meals provided in a dining facility located on a remote construction site, oil rig or ship, and
- meals provided to a live-in housekeeper or to a resident teacher in a boarding school.

Meals supplied to family members living with an employee who is entitled to meals under the employment agreement or award are also treated as board meals and are valued under these rules.

13.2 TAXABLE VALUE

The taxable value of a board fringe benefit is $2.00 per meal per person ($1.00 per person if under the age of 12). You reduce this by any amount the employee pays for the meal. Incidental refreshments such as morning and afternoon teas supplied as part of board are exempt from FBT.

Where you have an agreement in place with your employee which requires them to make a contribution towards their board meals and their accommodation, you may apportion that contribution on any reasonable basis.

EXAMPLE

An employee is provided with accommodation and meals at their place of work. The employee contributes $182 a week ($26 a day) towards their accommodation and meals as per their remuneration agreement. The employer apportions the contribution as follows: $6 per day as a contribution towards the three meals provided each day. In effect this will reduce the taxable value of each board fringe benefit to nil. $20 a day will be the employee's contribution towards their accommodation.

GST does not affect the taxable value of board fringe benefits so these benefits are always grossed up at the type 2 rate. Chapter 1 contains more information about GST and FBT.

13.3 MEALS PROVIDED BY OTHERS

Where you contract an employee's services to another person who provides the employee with board meals on their premises, the meals are board fringe benefits and you still have the FBT liability.

13.4 MEALS THAT ARE NOT BOARD FRINGE BENEFITS

The following meals are not board fringe benefits:

- meals provided at a party, reception or other social function
- meals provided in a dining facility open to the public, except for board meals provided to employees of a restaurant, motel, hotel, etc, and
- meals provided in a facility principally used by a particular employee.

Such meals may be property fringe benefits or, if provided by a tax-exempt body, tax-exempt body entertainment fringe benefits.

13.5 REDUCTION IN TAXABLE VALUE WHERE EXPENDITURE WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE

If you provide a board fringe benefit to an employee in circumstances where they would have been entitled to an income tax deduction if they had paid for the meal, the taxable value of the board fringe benefit is reduced to nil.

13.6 EXEMPT BOARD BENEFITS

Board meals provided to an employee who is employed in a primary production business located in a remote area are exempt benefits under section 58ZD of the *Fringe Benefits Tax Assessment Act 1986* (see 20.7).

MORE INFORMATION

- Taxation Ruling MT 2029 – Fringe benefits tax: accommodation and meals provided to shearers.
- Taxation Ruling TR 94/1 – Fringe benefits tax: meals, or meals and accommodation provided to stock workers working away from their usual quarters.

14 ENTERTAINMENT

There is no category of fringe benefit called 'entertainment fringe benefit'. However, the provision of entertainment may give rise to a number of different types of fringe benefit. This chapter explains the different types of fringe benefit that may arise from providing entertainment and also provides information on:

- how to identify whether the provision of food or drink is entertainment, and any exemptions that may apply
- when you can elect to classify fringe benefits as meal entertainment fringe benefits and how to calculate the taxable values
- exemptions that may apply to the provision of recreational entertainment and how to calculate the taxable value of recreational entertainment
- recording keeping and reporting requirements, and
- the fringe benefits tax and income tax results that generally arise from providing entertainment.

This chapter does not apply to entertainment provided by tax-exempt bodies. For information about entertainment provided by tax-exempt bodies, see chapter 15.

> **!** Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

14.1 WHAT IS THE PROVISION OF ENTERTAINMENT?

The provision of entertainment means the provision of:

- entertainment by way of food, drink or recreation, or
- accommodation or travel in connection with, or to facilitate the provision of, such entertainment.

Recreation includes amusement, sport and similar leisure-time pursuits and includes recreation and amusement in vehicles, vessels or aircraft (for example, joy flights, sightseeing tours, harbour cruises).

If your organisation is a tax-exempt body, refer to Chapter 15 for information about valuing these types of benefits.

Some examples of the provision of entertainment are:

- business lunches and drinks, cocktail parties and staff social functions
- providing entertainment to employees and clients by providing access to sporting or theatrical events, sightseeing tours, holidays and so on, and
- accommodation and travel when it is provided in connection with or to facilitate activities such as entertaining clients and employees over a weekend at a tourist resort, or providing them with a holiday.

14.2 DOES THE PROVISION OF ENTERTAINMENT GIVE RISE TO AN ENTERTAINMENT FRINGE BENEFIT?

There is no category of 'entertainment fringe benefit' as such. The provision of entertainment may give rise to a number of different types of fringe benefit depending on the circumstances under which you provide the entertainment. The different types of fringe benefit that may arise are:

- a meal entertainment fringe benefit (see 14.7) where fringe benefits are provided by way of, or in connection with, food or drink
- an expense payment fringe benefit (see chapter 9), for example, the cost of theatre tickets purchased by an employee that you reimburse
- a property fringe benefit (see chapter 17), for example, providing food and drink
- a residual fringe benefit (see chapter 18), for example, providing accommodation or transport, and
- a tax-exempt body entertainment fringe benefit. This category of fringe benefit involves only those employers who are exempt from income tax (see chapter 15).

14.3 HOW TO IDENTIFY WHETHER THE PROVISION OF FOOD OR DRINK IS ENTERTAINMENT

In order to determine when food or drink provided to a person results in entertainment, you need to examine the circumstances surrounding that provision of the food or drink. You need to look at the following.

> ❗ None of the factors below on their own will determine if the food or drink provided is meal entertainment, however (a) and (b) are considered the more important factors.

(a) Why is the food or drink being provided?

This is a purpose test. For example, food or drink provided for the purposes of refreshment does not generally have the character of entertainment, whereas food or drink provided in a social situation where the purpose of the function is for employees to enjoy themselves has the character of entertainment.

(b) What food or drink is being provided?

Morning and afternoon teas and light meals are generally not considered to be entertainment. However, as light meals become more elaborate, they take on more of the characteristics of entertainment. The reason for this is that the more elaborate a meal, it becomes more likely that entertainment arises from consuming the meal.

(c) When is the food or drink being provided?

Food or drink provided during work time, during overtime or while an employee is travelling is less likely to be entertainment. This is because in the majority of these cases, food provided is for a work-related purpose rather than an entertainment purpose. This, however, depends upon whether the entertainment of the person is the expected outcome of the food or drink. For example, a staff social function held during work time still has the character of entertainment.

(d) Where is the food or drink being provided?

Food or drink provided on the employer's business premises or at the usual place of work of the employee is less likely to have the character of entertainment. However, food or drink provided in a function room, hotel, restaurant, café, coffee shop or consumed with other forms of entertainment is more likely to have the character of entertainment. This is because the provision of food or drink is less likely to have a work-related purpose.

> ➤ If the benefit is:
> - entertainment by way of food or drink, read below
> - recreational entertainment, see 14.10, or
> - not entertainment, see 14.17.

14.4 DO YOU PROVIDE FOOD OR DRINK THAT IS ENTERTAINMENT?

If you provide entertainment by way of food or drink you must:

Step	Action	Chapter reference
1	Consider whether an exemption applies.	14.5
2	If no exemption applies, the entertainment may be a property, expense payment or residual fringe benefit.	14.6
3	Decide whether the benefit will be valued under the meal entertainment fringe benefit rules.	14.7
4	Keep the appropriate records.	14.13
5	If required, report an amount on the employee's payment summary.	14.14

> ➤ Examples of how the valuation rules apply are shown in 14.9.

14.5 DOES AN EXEMPTION APPLY?

An exemption applies to the provision of food or drink in the following circumstances.

Food and drink consumed on business premises

> ❗ This exemption does not apply to employers who are exempt from income tax when entertainment arises from the provision of food and/or drink.
>
> It also does not apply if you are a tax-paying body who elects to value the entertainment as meal entertainment.

Food and/or drink provided to and consumed by current employees on your business premises on a working day are exempt property benefits (see 20.6). The exemption from FBT applies regardless of whether:

- the food and drink is prepared on your premises (a corporate box is not part of your business premises), or
- entertainment arises from the provision of food and/or drink.

Food and/or drink provided on your business premises to associates of employees (for example, spouses) is not exempt from FBT. Where you provide food and/or drink on the same occasion to both employees and their associates, you may have to apportion the expenditure on a per head basis.

EXAMPLE

An employer provided drinks and a buffet meal for 10 employees and their spouses on business premises. The cost was $500. The cost of the entertainment provided to employees was $250; this is exempt from FBT. The cost related to entertainment of the associates ($250) is not exempt from FBT.

In the above example, the provision of the food and drink is the provision of meal entertainment. If the employer elects to use one of the meal entertainment fringe benefit valuation rules, they must include all of the $500 expenditure when calculating their total meal entertainment expenditure for the FBT year.

Minor benefits exemption

Depending on the standard of entertainment provided, the benefit may qualify for the minor benefits exemption. See 20.8 for information about the minor benefits exemption.

14.6 TAXABLE VALUE OF FOOD OR DRINK THAT IS ENTERTAINMENT

Generally, when you provide entertainment to both employees and non-employees (for example, clients), only the part of the entertainment that relates to employees and their associates is subject to FBT.

The taxable value of the food or drink, and the associated accommodation or travel, is calculated using the respective valuation rule according to whether the benefit is an expense payment, property, residual or tax-exempt body entertainment fringe benefit.

If you cannot easily determine the actual expenditure, you can use a 'per head' basis of apportionment.

You may elect to value the food, drink and associated accommodation or travel as 'meal entertainment'. If you make this election, you cannot use the per head basis of apportionment and the taxable value is calculated under the meal entertainment valuation rules, explained below.

EXAMPLE

An employee entertained two of her employer's clients by taking them to lunch at a restaurant. The meal cost $150. The employee paid for the meal by charging it to her employer's credit card account (that is, the meal was paid for by the employer). The meal provided to the employee is a property fringe benefit. Using a per head apportionment, the taxable value of the fringe benefit is one-third of the total cost of the meal (that is, $50).

EXAMPLE

An employee takes several of his employer's clients on a sightseeing tour of local attractions. The employer pays the total cost of the trip directly to the tour agent. Providing the trip to the employee is a residual fringe benefit. The taxable value of the fringe benefit is the cost of one ticket for the trip.

EXAMPLE

An employee entertained two of his employer's clients by taking them to lunch. The meals cost $50 each. The employee paid a total of $150 for the meals out of his own pocket. His employer later reimbursed him for the cost of the meals. This reimbursement gives rise to an expense payment fringe benefit. Special legislative provisions (see 19.5) ensure that FBT is paid only on the portion of the reimbursement relating to the entertainment of the employee (and associates). In this case, the taxable value of the expense payment fringe benefit is $50.

14.7 MEAL ENTERTAINMENT FRINGE BENEFITS

Where expense payment fringe benefits, airline transport fringe benefits, property fringe benefits, residual fringe benefits or tax-exempt body entertainment fringe benefits arise from the provision of meal entertainment, you may elect to classify these fringe benefits as meal entertainment fringe benefits. If you choose to classify a fringe benefit as a meal entertainment fringe benefit, you have to classify all fringe benefits arising from the provision of meal entertainment during the FBT year as meal entertainment fringe benefits.

Specifically, the provision of meal entertainment means:

- providing entertainment by way of food or drink
- providing accommodation or travel in connection with, or to facilitate the provision of, such entertainment, or
- paying or reimbursing expenses incurred by the employee for the above.

> ❗ The provision of meal entertainment does not include the provision of entertainment by way of recreation.

If you elect to classify the provision of meal entertainment as a meal entertainment fringe benefit, the meal entertainment provided does not give rise to an expense payment fringe benefit, airline transport fringe benefit, property fringe benefit, residual fringe benefit or tax-exempt body entertainment fringe benefit.

You cannot include meal entertainment provided by someone other than you (that is, someone who is not the employer) in the election.

This means that if a fringe benefit arises from meal entertainment provided by someone other than you, you must value the fringe benefit according to the rules for that type of fringe benefit. It could, for example, be an expense payment fringe benefit, an airline transport fringe benefit, a property fringe benefit, a residual fringe benefit or a tax-exempt body entertainment fringe benefit.

14.8 HOW TO CALCULATE THE TAXABLE VALUE OF A MEAL ENTERTAINMENT FRINGE BENEFIT

There are two methods you can use to calculate the taxable value of meal entertainment fringe benefits.

- The 50-50 split method.
- The 12-week register method.

These options are also available to income tax-exempt employers.

Both methods are based on your total meal entertainment expenditure. This includes expenditure that might otherwise be exempt from FBT or not normally subject to FBT.

Under the 50-50 split method, the taxable value is 50% of your total meal entertainment expenditure.

The 12-week register method is based on the total meal entertainment expenditure and an appropriate percentage, as evident from the 12-week register.

If you choose to classify a fringe benefit as a meal entertainment fringe benefit, you have to classify all fringe benefits arising from the provision of meal entertainment as such. You may elect to classify benefits as meal entertainment regardless of whether or not you did so in a previous year.

You must decide to classify fringe benefits as meal entertainment no later than the day on which your FBT return is due to be lodged with the Tax Office or, if you do not have to lodge a return, by 21 May.

You need to carefully consider the full implications of both the 50-50 split method and the 12-week register method of calculating the taxable value of meal entertainment fringe benefits. It may be that a better option for you is to determine the taxable value based on actual expenditure.

> ❯ When determining which meal entertainment valuation method is the best for you, factors you could consider include:
>
> - who do you provide entertainment to (employees, associates or clients)
> - how often do you provide entertainment
> - which method results in the lowest FBT liability, and
> - administration costs of each method for your organisation.

There is no need to notify the Tax Office of the method chosen as your business records are sufficient evidence of this.

If you do not elect to use one of these methods, you must use the respective valuation rule to calculate the taxable value according to whether the benefit is an expense payment fringe benefit, a property fringe benefit, a residual fringe benefit or a tax-exempt body entertainment fringe benefit.

Using the 50–50 split method

The total taxable value of meal entertainment fringe benefits is 50% of the expenses you incur in providing meal entertainment to all people (whether employees, clients or otherwise) during the FBT year. Your total meal entertainment expenditure includes expenditure that might otherwise be exempt from FBT or not normally subject to FBT.

> ❗ The reference to expenses you incur in providing meal entertainment excludes any contribution by an employee or associate.

The property benefits exemption described in 14.5 and 20.6 and the minor benefits exemption described in 20.8 do not apply to meal entertainment fringe benefits if you use the 50-50 split method.

Using the 12-week register method

The total taxable value of meal entertainment fringe benefits is the total expenses you incur in providing meal entertainment to all people (whether employees, clients or otherwise) during the FBT year, multiplied by the 'register percentage'. Your total meal entertainment expenditure includes expenditure that might otherwise be exempt from FBT or not normally subject to FBT.

> The reference to expenses you incur in providing meal entertainment excludes any contribution by an employee or associate.

Register percentage

You use the following formula to calculate the register percentage:

$$\frac{A}{B} \times 100$$

Where:

A = the total value of meal entertainment fringe benefits you provide to employees and their associates during the 12-week register period, and

B = the total value of meal entertainment you provide to all people (whether employees, clients or otherwise) during the 12-week register period.

Valid register

You must keep the register for a continuous period of 12 weeks. The provision of meal entertainment during this period must be representative of the meal entertainment you provide during the first FBT year for which the register is valid.

Generally, a register is valid for the year in which you keep it and the four following years. However, if the period during which you keep the register begins in one FBT year and ends in the following FBT year, the register is not valid for the first year.

If the total expenses you incur in providing meal entertainment increase by more than 20% in a year, the register is not valid for any of the years following the year in which the increase occurred.

A register that is otherwise valid for an FBT year ceases to be valid if there is a later valid register for that FBT year.

A register containing an entry that is false or misleading in a material particular is not a valid register.

The person making the entries in the register must do so as soon as practicable after the details are known.

Details to be included in register

You record the following details in the register:

- the date you provided meal entertainment
- for each recipient of meal entertainment – whether they are one of your employees or an associate of an employee
- the cost of the meal entertainment
- the kind of meal entertainment provided
- where the meal entertainment was provided, and
- if the meal entertainment was provided on your premises, whether it was provided in an in-house dining facility.

> The property benefits exemption described in 14.5 and 20.6 does not apply to meal entertainment fringe benefits when you use the 12-week register method.

14.9 COMMON CIRCUMSTANCES IN WHICH FOOD OR DRINK IS PROVIDED

The following are some common circumstances in which food or drink is provided by a taxable entity. The FBT consequences of providing food or drink in these circumstances are explained.

> The provision of alcohol generally means that entertainment has been provided. However, there is a narrow category of situations where alcohol is provided to an employee while they are on business travel overnight or where the provision of alcohol is reasonably incidental to an employee's attendance at certain business seminars.

Morning and afternoon teas and light meals

Providing morning or afternoon tea or light meals to your employees on your premises is not entertainment, and is therefore not meal entertainment, where you are providing refreshments to enable the employee to complete the working day in comfort. The provision of food or drink in these circumstances is exempt from FBT under the property exemption if the food or drink is provided on your premises. If the food or drink is provided off your premises, you will need to consider the circumstances surrounding the provision of the food or drink.

Providing morning or afternoon tea or light meals to associates of your employees on your premises is not entertainment. The provision of food or drink in this circumstance is, however, a property fringe benefit. You will need to look at the rules for valuing property fringe benefits in order to determine the taxable value. The property exemption does not apply where the benefit is provided to an associate.

Morning and afternoon tea includes light refreshments such as tea, coffee, fruit drinks, cakes and biscuits, but does not include alcohol.

Light meals include sandwiches and other hand food, salads and orange juice that are intended to be, and can be, consumed on your premises or worksite. As light meals become more elaborate, they take on more of the characteristics of entertainment. Normal business practice determines when light meals become entertainment.

EXAMPLE: Afternoon tea without alcohol

A taxable entity undertakes a research project. When the project is completed, a presentation by the participants in the project is provided to senior management. All staff involved in the research project attend the presentation. The presentation is undertaken on the business premises. An afternoon tea break is included in the presentation and afternoon tea consisting of tea, coffee, cakes and biscuits is provided.

The afternoon tea provided to the employees is exempt from FBT.

EXAMPLE: Afternoon tea with alcohol

Assume the same facts as above apply, however alcohol is provided.

As alcohol has been provided, the afternoon tea provided to employees in this situation is considered to have a social context. The afternoon tea is entertainment. This will be a property fringe benefit and the property exemption will apply, unless the employer elects to value the entertainment as meal entertainment.

If alcohol is provided at the morning or afternoon tea or light lunch, you are providing entertainment to your employees and their associates.

Christmas parties

There is no separate FBT category for Christmas parties and you may encounter many different circumstances when providing these events to your staff. Fringe benefits provided by you, an associate or under an arrangement with a third party to any current employees, past and future employees and their associates (spouses and children), may attract FBT.

Implications for taxpaying body

If you are not a tax-exempt organisation (see chapter 15) and do not use either the 50-50 split method or the 12-week register method (see 14.8) for meal entertainment, the following explanations may help you determine whether there are FBT implications arising from a Christmas party.

Exempt property benefits

The costs (such as food and drink) associated with Christmas parties are exempt from FBT if they are provided on a working day on your business premises and consumed by current employees (see 20.6).

A taxable fringe benefit will arise in respect of an associate of an employee who attends the party if not otherwise exempt under the minor benefits exemption (see 20.8).

Exempt benefits – minor benefits

A Christmas party may be a minor benefit and exempt if the cost of the party is less than $100 per employee and certain conditions are met (see 20.8). The cost per employee includes the cost for any of their associates attending the party.

The Government has announced that from 1 April 2007, the minor benefits threshold will increase from $100 to $300.

Gifts provided to employees at a Christmas party

All benefits associated with the Christmas function should be grouped to determine whether the total value meets or exceeds the $100 minor benefits threshold. For example, the cost of gifts such as bottles of wine and hampers given at the function would be included in the total cost of the party.

Tax deductibility of a Christmas party

The cost of providing a Christmas party is income tax deductible only to the extent that it is subject to FBT. Therefore, any costs that are exempt from FBT (that is, exempt minor benefits and exempt property benefits) cannot be claimed as an income tax deduction.

The costs of entertaining clients are not subject to FBT and are not income tax deductible.

Christmas party held on the business premises

A Christmas party provided to current employees on your business premises or worksite on a working day may be an exempt benefit. The cost of associates attending the Christmas party is not exempt.

Christmas party held off the business premises

The costs associated with Christmas parties held off your business premises (for example, a restaurant) will give rise to a taxable fringe benefit for employees and their associates unless the benefits are exempt minor benefits (see 20.8).

Food or drink provided to employees while on business travel overnight

If you provide food or drink, including some alcohol, to your employee while they are on business travel overnight, this is generally not the provision of entertainment. Food or drink provided in these circumstances is therefore not meal entertainment, but will be an expense payment or a property fringe benefit. The 'otherwise deductible' rule applies to reduce the taxable value of the expense payment or property fringe benefit to nil.

If excessive alcohol is provided to employees while they are on business travel overnight, the provision of the food or drink is considered entertainment. The provision of a meal to employees while they are on business travel overnight is also entertainment if they receive entertainment in conjunction with their meal, such as attending a floor show.

EXAMPLE: Meals provided to employees while on business travel overnight not entertainment

Two employees of an employer dine together while travelling on business overnight and are subsequently reimbursed by their employer.

The reimbursement of the meal expenses does not amount to entertainment and would be income tax deductible to the employer. Therefore, the reimbursement of the meals is not meal entertainment, but is an expense payment fringe benefit. The taxable value of the meals is reduced to nil because the meals would have been 'otherwise deductible' to the employees.

Food or drink provided to employees at work functions

Where your employees are required to attend work functions as part of their employment duties, you will need to examine the circumstances of the situation and what duties are being performed by your employee in order to determine if entertainment has been provided. The fact that an employee is required to attend a function does not by itself mean that entertainment has not been provided.

Food or drink provided to employees at continuing professional development seminars

Your expenditure on food or drink that is reasonably incidental to your employees' attendance at a continuing professional development (CPD) seminar that goes for at least four hours is deductible and is not entertainment. The benefit is either an expense payment or property fringe benefit. Where the food or drink is provided on your premises, it is normally a property benefit and the property exemption may apply.

If the food or drink is not provided on your premises, it is either an expense payment or property fringe benefit. However, the 'otherwise deductible' rule may apply to reduce the value of the fringe benefit.

How does the 'otherwise deductible' rule apply?

If your employee would have been able to claim an income tax deduction for the cost of attending the seminar had it been incurred by the employee (and not reimbursed by you), the otherwise deductible rule applies as follows.

If the food or drink:

- does not amount to entertainment, the registration fee would have been deductible in full and FBT does not apply, or
- does amount to entertainment:
  - the registration fee would have been deductible in full provided the food or drink is reasonably incidental to the employee attending certain business seminars that go for at least four hours, and FBT does not apply
  - if the food or drink is not reasonably incidental to the employee attending certain business seminars that go for at least four hours, only that proportion of the registration fee which does not relate to the food or drink would have been deductible, and FBT will apply, or
  - if the food or drink is reasonably incidental to the employee attending a work-related CPD seminar that is not at least four hours in duration, only that proportion of the registration fee which does not relate to the food or drink would have been deductible and FBT will apply.

Does the type of seminar make a difference?

A seminar is any training session, including a conference, convention, lecture, meeting, speech, question and answer session or educational course.

A business meeting, where the main purpose of the meeting is to give or receive information, or discuss matters relating to the business, is not treated the same way as those described as 'certain business seminars'. Neither, for example, is a seminar, where the main purpose is to promote or advertise a business (or prospective business) or its goods or services. However, a planning day (where employees discuss general policy issues relevant to the internal management of your business) conducted on property that is occupied by a person (other than the employer) whose business includes organising seminars or making property available for conducting seminars, is treated the same way as those described as 'certain business seminars'.

What does reasonably incidental mean?

Food or drink is reasonably incidental to a seminar if it:

- is provided for sustenance because of the duration, time of day or location of the seminar
- is provided immediately before, during or immediately following working sessions of the seminar, and
- is available to all seminar participants.

Which part of the seminar can be included in the four hours?

The four hours does not include any part of the seminar that occurs during a meal or any breaks during the seminar for meals, rest or recreation.

What if the seminar goes for less than four hours?

Where a work related CPD seminar goes for less than four hours, the costs of attending that seminar would be deductible to an employee if incurred by the employee. Food or drink which is included as part of that cost would be deductible provided that the food or drink does not amount to entertainment. For this purpose, light refreshments (which can include some alcohol) provided immediately prior to or following the seminar does not constitute entertainment.

Food or drink provided in these circumstances does not amount to entertainment and is not meal entertainment. It will be a property or expense payment fringe benefit. The full cost of attending the seminar would have been income tax deductible if incurred by the employee. The taxable value of the property or expense payment fringe benefit can be reduced to nil under the 'otherwise deductible' rule.

EXAMPLE: Food and drink provided at seminar is not entertainment

An employer pays for an employee to attend a seminar that is held from 7.00am to 9.00am and is part of a continuing professional development (CPD) program. The employer pays the organisation presenting the seminar directly. The seminar is held in a hotel and a light breakfast is provided.

The food or drink provided in these circumstances does not amount to entertainment and is therefore not meal entertainment. It is a property fringe benefit. The full cost of attending the CPD session would have been income tax deductible to the employee had the employee incurred it. The taxable value of the property fringe benefit can be reduced to nil under the 'otherwise deductible' rule.

14.10 RECREATIONAL ENTERTAINMENT

Recreational entertainment includes amusement, sport and similar leisure time pursuits, for example, a game of golf, theatre or movie tickets, a joy flight or a harbour cruise.

If you provide recreational entertainment to your employees, you need to:

Step	Action	Chapter reference
1	Consider whether an exemption applies.	14.11
2	If no exemption applies, decide how you're going to value the entertainment.	14.12
3	Keep the appropriate records.	14.13
4	If required, report an amount on the employee's payment summary.	14.14

14.11 IF THE BENEFIT PROVIDED IS RECREATIONAL ENTERTAINMENT, DOES AN EXEMPTION APPLY?

Depending on the standard of entertainment provided, the minor benefits exemption may apply. See 20.8 for more information about the minor benefits exemption.

14.12 TAXABLE VALUE OF RECREATIONAL ENTERTAINMENT

The taxable value of recreational entertainment is calculated using the respective valuation rule according to whether the benefit is an expense payment (see chapter 9), property (see chapter 17) or residual fringe benefit (see chapter 18).

Where you provide recreational entertainment by hiring or leasing entertainment facilities and the benefit is a residual fringe benefit, you may elect to use the 50-50 split method.

Hiring or leasing entertainment facilities

Entertainment facility leasing expenses are expenses you incur in hiring or leasing:

- a corporate box
- boats or planes for providing entertainment, or
- other premises or facilities for providing entertainment.

Expenses, or parts of expenses, that are not entertainment facility leasing expenses are:

- expenses attributable to providing food or beverages, and
- expenses attributable to advertising that would be an allowable income tax deduction.

50–50 split method

You may elect that the total taxable value of residual fringe benefits arising from the use of entertainment facilities you hire or lease is 50% of all entertainment facility leasing expenses.

You must decide to use the 50-50 split method for entertainment facility leasing expenses no later than the day on which your FBT return is due to be lodged with the Tax Office or, if you do not have to lodge a return, by 21 May.

There is no need to notify the Tax Office of the method chosen as your business records are sufficient evidence of this.

14.13 RECORD KEEPING REQUIREMENTS

You should record information relating to entertainment so that the taxable value of the fringe benefit can be calculated. You should record:

- the date you provided the entertainment
- who is the recipient of the entertainment (are they an employee, associate of the employee or another person)
- the cost of the entertainment
- the kind of entertainment provided, and
- where the entertainment is provided.

Refer to chapter 4 for more information about record keeping requirements.

14.14 REPORTING REQUIREMENTS

Entertainment provided by way of food or drink, and benefits associated with that entertainment, such as travel and accommodation (regardless of which category is used to value the benefit) are excluded benefits for reporting purposes and so they are not included in your employees' reportable fringe benefits amount on their payment summary.

Expenses associated with hiring or leasing entertainment facilities are excluded fringe benefits for reporting purposes and are therefore not reportable.

Other types of recreational entertainment, such as tickets to musicals, are subject to the reporting requirements.

Refer to chapter 5 for more information about reportable fringe benefits.

14.15 INCOME TAX DEDUCTIBILITY

As a general rule, you are not allowed an income tax deduction for expenses incurred in providing entertainment. This is the case even if the entertainment is provided specifically for business reasons, such as business lunches and entertaining clients, or in connection with the performance of employment-related duties.

There are a number of exceptions to the general non-deductibility rule. Briefly, they include the following.

- The cost of providing entertainment in the ordinary course of business where your business is providing entertainment to paying clients or customers (for example, restaurants, theatres, amusement parks).
- Certain advertising or promotional expenses relating to your business, including the cost of:
  - supplying entertainment to a person as part of a contract for supplying goods or services, for example, offering a free holiday as an incentive to customers to purchase goods
  - promoting your goods or services by providing free or discounted entertainment, for example, wine tasting at a winery, and
  - exhibiting goods for public promotion, for example, a fashion parade.
- An entertainment allowance provided to employees where the allowance is included in their assessable income.
- The cost of food and drink you provide to employees in an 'in-house dining facility'. (This does not include food or drink you provide to employees at a party or similar function.) An in-house dining facility is a canteen, dining room or similar facility located on your premises that is wholly or principally operated to provide food and drink to employees on working days, and is not open to the public at any time. (A boardroom or meeting room with kitchen facilities is not an in-house dining facility.)
- The cost of meals you provide to employees on working days in an 'eligible dining facility', for example, restaurant, café or hotel dining room. The employees must be employees who work in or in connection with the eligible dining facility. Again, this does not include meals you provide at a party or similar social function.
- The cost of food and drink, that is reasonably incidental to a person's attendance at an 'eligible seminar'. This is a conference, convention, lecture, etc of at least four hours duration that is not held:
  - to conduct normal business discussions in relation to the particular business
  - for the purpose of advertising the goods or services of a particular business, or
  - for the dominant purpose of providing entertainment.
- The cost of food and drink that is reasonably incidental to a person's attendance at an 'exempt training seminar' of at least four hours duration, organised by or on behalf of you solely for training employees. The session must be conducted in conference facilities operated by a business unrelated to you.
- The cost of operating a recreation facility that is situated on your premises, and is mainly for use by employees on working days (for example, gym, pool or games room).
- The cost of providing an overtime meal to an employee under an industrial award or agreement, or an overtime meal allowance paid to an employee under an industrial instrument.
- Expenditure on entertainment, that does not involve entertaining another person, that would otherwise be deductible to the person benefiting from it. For example, the cost of a person's meals while travelling in the course of employment.
- The cost of gratuitous entertainment provided to members of the public who are sick, disabled, poor or otherwise disadvantaged (for example, a company sponsors a Christmas party in a children's hospital).
- Expenditure incurred in providing certain specified fringe benefits and exempt benefits. The more common of these are board meals and living away from home food benefits.
- Expenditure on entertainment, that is incurred in providing fringe benefits. Note that exempt benefits are not fringe benefits.
- If you elect to classify certain fringe benefits as **meal entertainment fringe benefits**, a restriction on deductibility is imposed for all expenditure incurred in the **provision of meal entertainment**, regardless of who the recipient is and whether the expenditure would ordinarily be deductible. The right to a deduction is limited to that portion of the expenditure taxed as meal entertainment fringe benefits.

The cost of entertaining clients, suppliers, (that is, not employees or associates of employees) remains non-deductible except for the limited range of circumstances described above where the income tax law may allow a deduction.

> ❗ If food and/or drink consumed on your premises give rise to an exempt benefit, the cost is not necessarily deductible for income tax purposes. This is because the benefits that arise are exempt benefits rather than fringe benefits.

14.16 ENTERTAINMENT TABLE

The following table gives a simplified summary of the FBT and income tax results that generally arise from providing entertainment to employees and others. The table is not intended for use by income tax-exempt employers.

Situation	Income tax	FBT
Employee takes two clients to lunch at a restaurant – cost $150	Employee's portion $50 tax deductible Client's portion $100 non-deductible	Employee's portion $50 fringe benefit Client's portion No FBT
Employee has meal in restaurant while travelling on business trip	Tax deductible	No FBT ('otherwise deductible' rule)
Employee has meal in an 'in-house canteen'	Tax deductible	Exempt from FBT
Employer provides sandwiches and juice for working lunch in office (not entertainment)	Tax deductible	Exempt from FBT
Employer provides substantial lunch with wine for employees in office but not in 'canteen'	Non-deductible	Exempt from FBT
Employer provides social function for employees in office	Non-deductible	Exempt from FBT
Employer provides social function for employees and associates in office	Cost per employee Non-deductible Cost per associate Tax deductible	Cost per employee Exempt benefit Cost per associate Taxable fringe benefit
Employer reimburses employee for cost of private party	Amount reimbursed is tax deductible	Taxable fringe benefit
Employer provides employee and associates with theatre tickets	Tax deductible	Taxable fringe benefit

14.17 DO YOU PROVIDE A BENEFIT WHICH IS NOT ENTERTAINMENT?

If you provide food, drink, recreation or associated accommodation or travel which is not entertainment, the benefit may be an expense payment, property or residual fringe benefit.

For information about:
- expense payment fringe benefits, refer to chapter 9
- property fringe benefits, refer to chapter 17, and
- residual fringe benefits, refer to chapter 18.

MORE INFORMATION

- Taxation Ruling TR 97/17 and Addendum – Income tax and fringe benefits tax: entertainment by way of food and drink.
- Taxation Ruling IT 2675 – Income tax and fringe benefits tax: entertainment – morning and afternoon teas; light meals; and in-house dining facilities.
- Taxation Determination TD 94/25 and Addendum – Fringe benefits tax: where an employer provides entertainment to both employees and non-employees, what is an acceptable method of determining the portion applicable to the employees for the purposes of the *Fringe Benefits Tax Assessment Act 1986*?

TAX-EXEMPT BODY ENTERTAINMENT FRINGE BENEFITS

15

This chapter explains the valuation rules for entertainment provided by tax-exempt bodies. If you are not a tax-exempt body, see chapter 14 for information about valuing these types of benefits.

The fringe benefits tax treatment of providing entertainment to employees (and their associates) of tax-exempt bodies are different to those of income tax paying bodies. There are different rules for tax-exempt bodies when it comes to the provision of entertainment because they do not pay income tax.

There is no category of fringe benefit called an 'entertainment fringe benefit'.

> **!** Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

15.1 WHAT IS A TAX-EXEMPT BODY ENTERTAINMENT FRINGE BENEFIT?

A tax-exempt body entertainment fringe benefit may arise from entertainment expenses incurred by an employer who is wholly or partially exempt from income tax, or who does not derive assessable income from the activities to which the entertainment relates. If your entity is a charity, you must be endorsed in order to be income tax exempt. See chapter 6 for more information about endorsement.

15.2 ARE YOU A TAX-EXEMPT BODY?

Your organisation is a tax-exempt body if your organisation's income is either:

- wholly exempt from income tax (for example, a club that earns income from members only), or
- partially exempt from income tax (for example, a club that earns income from both members and non-members).

If your entity is a charity, you must be endorsed in order to be income tax exempt. See chapter 6 for more information about endorsement.

15.3 IS THE BENEFIT ENTERTAINMENT?

In order to determine whether the benefit provided is entertainment, you need to examine the circumstances surrounding the provision of the benefit. Tax-exempt bodies need to look at the same factors as income tax paying bodies in order to decide if the benefit is entertainment. Refer to chapters 14.1, 14.2 and 14.3 for information about determining if a benefit is entertainment.

> **!** If the benefit is:
> - entertainment by way of food or drink, read below
> - recreational entertainment, see 15.12, or
> - not entertainment, see 15.17.

15.4 DO YOU PROVIDE FOOD OR DRINK THAT IS ENTERTAINMENT?

If you provide entertainment by way of food or drink, you must:

Step	Action	Chapter reference
1	Consider whether an exemption applies.	15.5
2	If no exemption applies, decide whether or not the entertainment is a tax-exempt body entertainment fringe benefit.	15.6
	If the benefit is not tax-exempt body entertainment, it may be a property, expense payment or residual fringe benefit.	15.17
3	If the benefit is a tax-exempt body entertainment fringe benefit, decide whether the benefit will be valued under the meal entertainment fringe benefit rules.	15.10
4	Keep the appropriate records	15.15
5	If required, report an amount on the employee's payment summary.	15.16

Examples of how the valuation rules apply are shown in 15.7.

15.5 DOES AN EXEMPTION APPLY?

There are only very limited circumstances under which an exemption will apply to the provision of food or drink.

PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services

The provision of benefits that constitute the provision of meal entertainment are exempt from FBT when provided by PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services.

Providing meal entertainment means:

- providing entertainment by way of food or drink
- providing accommodation or travel connected with such entertainment, or
- paying or reimbursing expenses incurred by an employee for the above.

Minor benefits exemption

Depending on the standard of entertainment provided, the benefit may qualify for the minor benefits exemption. As well as the general criteria for deciding whether a minor benefit should be treated as an exempt benefit (see 20.8), for tax-exempt bodies the exemption is available only where:

- the provision of the entertainment is incidental to the provision of entertainment to outsiders and does not consist of a meal, other than light refreshments, or
- a function is held on your business premises solely as a means of recognising the special achievements of your employee in a matter relating to the employment of your employee.

In these circumstances only benefits provided to your employee, and their associates, are exempt from FBT.

EXAMPLE: Provision of light refreshment incidental to the provision of entertainment to outsiders

A tax-exempt body hosts a morning tea at a local café for its sponsors. Finger food, tea, coffee and soft drinks are provided. Some employees attend to thank the sponsors on behalf of the tax-exempt body for their assistance throughout a particularly difficult year. It is unusual for the tax-exempt body to host this type of function. The cost per head is $15. Providing morning tea to employees in these circumstances would meet the requirements of the minor benefits exemption.

EXAMPLE: Function recognising special achievements of employee

A project manager, who is an employee of a tax-exempt body, is awarded 'Project Manager of the Year' by an external organisation. A dinner is held on the tax-exempt body's premises for the presentation of the award. Senior management of the tax-exempt body, the employee receiving the award and their family and representatives from the external organisation presenting the award attend the dinner.

The minor benefits exemption applies in this circumstance to the employee receiving the award and their family.

15.6 IS THE BENEFIT A TAX-EXEMPT BODY ENTERTAINMENT FRINGE BENEFIT?

A tax-exempt body entertainment fringe benefit is **non-deductible** entertainment provided to employees (and their associates) by a tax-exempt body. Only entertainment that is non-deductible for income tax purposes can give rise to this benefit. Where entertainment is deductible, it will not constitute a tax-exempt body entertainment fringe benefit.

For the purpose of identifying a tax-exempt body entertainment fringe benefit, and determining whether the expenditure is deductible for income tax purposes, you are treated as though you are a taxable entity. That is, you should ask yourself, '*If my organisation paid income tax, would the organisation be entitled to an income tax deduction for this expenditure?'*

The benefit may arise from entertainment expenses incurred by an employer who is wholly or partially exempt from income tax or who does not derive assessable income from the activities to which entertainment relates.

In general, entertainment expenses are non-deductible for income tax purposes. However, some specific entertainment expenses are deductible, for example the cost of meals provided to employees in a staff cafeteria excluding benefits associated with a social function, the cost of meals at certain business seminars and meals on business travel overnight.

See 14.15 for information about the tax deductibility of entertainment expenses

15.7 COMMON CIRCUMSTANCES IN WHICH FOOD OR DRINK IS PROVIDED

The following are some common circumstances in which food or drink is provided by a tax-exempt body to their employees. The FBT consequences of providing food or drink in these circumstances are explained.

> ❗ The provision of alcohol generally means that entertainment has been provided. However, there is a narrow category of situations where alcohol provided to an employee is not entertainment. These situations include where some (but not excessive) alcohol is provided to an employee while they are on business travel overnight or where the provision of alcohol is reasonably incidental to an employee's attendance at certain business seminars.

Morning and afternoon teas and light meals

Providing morning or afternoon tea or light meals to your employees on your premises is not entertainment (and is therefore not a tax-exempt body entertainment fringe benefit) where you are providing refreshments to enable the employees to complete the working day in comfort. The provision of food and drink in these circumstances is exempt from FBT under the property exemption if the food or drink is provided on your premises. If the food or drink is provided off your premises, you will need to consider the circumstances surrounding the provision of the food or drink.

Providing morning or afternoon tea or light meals to associates of your employees on your premises is not entertainment. The provision of food and drink in this circumstance is, however, a property fringe benefit. You will need to look at the rules for valuing property fringe benefits in order to determine the taxable value. The property exemption does not apply where the benefit is provided to an associate.

Morning and afternoon tea includes light refreshments such as tea, coffee, fruit drinks, cakes and biscuits, but does not include alcohol.

Light meals include sandwiches and other hand food, salads and orange juice that are intended to be, and can be, consumed on your premises or worksite. As light meals become more elaborate, they take on more of the characteristics of entertainment. Normal business practice determines when light meals become entertainment.

EXAMPLE: Afternoon tea without alcohol

A tax-exempt body undertakes a research project. When the project is completed, a presentation by the participants in the project is provided to senior management. All staff involved in the research project attend the presentation. The presentation is undertaken on the business premises. An afternoon tea break is included in the presentation and afternoon tea consisting of tea, coffee, cakes and biscuits is provided.

The afternoon tea provided to the employees is exempt from FBT.

EXAMPLE: Afternoon tea with alcohol

Assume the same facts as above apply, however alcohol is also provided.

As alcohol has been provided, the afternoon tea provided to employees in this situation is considered to have a social context. The afternoon tea is entertainment. This will be tax-exempt body entertainment, or where an employer elects, this would be meal entertainment.

> ❗ If alcohol is provided at the morning or afternoon tea or light lunch, you are providing entertainment to your employees and their associates.

Meals provided to employees at in-house dining facilities

Full hot meals provided to employees, who are not on business travel overnight, is entertainment. However, expenditure incurred in respect of the provision of full hot meals to employees at an in-house dining facility is an allowable income tax deduction to tax-paying bodies, and is therefore not tax-exempt body entertainment. An income tax deduction is available to tax-paying bodies only where the food and drink is not provided at a party, reception or social function. If you provide full hot meals at an in-house dining facility (not at a party, reception or social function) this will be a property benefit, and the property exemption will apply.

What is an in-house dining facility?

A canteen, dining room or similar facility is an in-house dining facility if:

- it is located on your premises or, if you are a company, on premises of a company related to you
- it is operated wholly or principally for providing food and drink on working days to your employees or, if you are a company, to employees of a company related to you, and
- it is not open to the public at any time.

'Principally' means operated mainly for providing food or drink. Whether a facility is operated principally for providing food and drink on working days to employees will ordinarily be determined on a time basis. That is, operated for this purpose more than 50% of the time it is used. However, time is not necessarily the sole criterion. You need to look at the facts, degree or impression of how the facility is used.

Provided the facility meets these three criteria, there is no restriction on where the food and drink is consumed. The food or drink provided in these facilities does not have to be consumed at the facility.

EXAMPLE: Food and drink not consumed at the in-house dining facility

A tax-exempt body, with an in-house dining facility, provides full hot meals to its employees. Some employees have the meals delivered to their workstations. The property exemption will apply in these circumstances.

A canteen, dining room or similar facility can be an in-house dining facility even though it does not provide food and drink for all your employees. For example, a dining room for the sole use of your executive employees qualifies as an in-house dining facility.

What is not an in-house dining facility?

A boardroom or a meeting room with kitchen facilities is not an in-house dining facility because:

- it is not a canteen, a dining room or a facility similar to a canteen or a dining room, and
- it is not operated wholly or principally for providing food and drink on working days to employees.

A boardroom or meeting room, whether or not it has associated kitchen facilities, is used for or operates mainly as a venue for meetings or conferences. The costs of providing substantial meals in a boardroom or meeting room with associated kitchen facilities are not deductible, regardless of where the meals are consumed.

EXAMPLE: Meals provided in an in-house dining facility – property exemption applies

A tax-exempt body provides hot lunches to employees in an in-house dining facility. The lunch provided does amount to meal entertainment. However, it is a property benefit and the property exemption will apply.

EXAMPLE: Meals provided in an in-house dining facility – property exemption does not apply

A tax-exempt body provides hot dinners to employees at the entity's end of financial year dinner. The dinner provided does amount to meal entertainment, but no income tax deduction would be available to tax-paying bodies. Meals provided in this instance are tax-exempt body entertainment fringe benefits and no exemptions apply.

Christmas parties

Christmas parties, whether held on a tax-exempt employer's premises or at another venue, constitute entertainment and will therefore give rise to a tax-exempt body entertainment fringe benefit.

EXAMPLE

A tax-exempt body hosts a Christmas function for employees and their spouses on the employer's premises. This is tax-exempt body entertainment.

If clients attended, there would be no FBT on their portion, provided the tax-exempt body has not elected to use the meal entertainment valuation rules.

Gifts provided to employees at Christmas

Christmas gifts provided to employees at Christmas functions will form part of the tax-exempt body entertainment fringe benefit.

Hampers or presents which are unrelated to a Christmas function are not considered to be the provision of entertainment. As these are not treated as tax-exempt body entertainment benefits, you can consider the minor benefit exemption. For example, a hamper given to each of your employees two weeks before a particular Christmas function that meets the conditions of the minor benefits exemption and the value is less than $100 will not attract any FBT.

The Government has announced that from 1 April 2007, the minor benefits threshold will increase from $100 to $300.

Food and drink provided to employees while on business travel overnight

If you provide food or drink, including some alcohol, to your employee while they are on business travel overnight, this is generally not the provision of entertainment. Food or drink provided in these circumstances is therefore not tax-exempt body entertainment, but will be an expense payment or a property fringe benefit. The 'otherwise deductible' rule applies to reduce the taxable value of the expense payment or property fringe benefit to nil.

If excessive alcohol is provided to employees while they are on business travel overnight, the provision of the food or drink is considered entertainment. The provision of a meal to employees while they are on business travel overnight is also entertainment if they receive entertainment in conjunction with their meal, such as attending a floor show.

EXAMPLE: Meals provided to employees while on business travel overnight not entertainment

Two employees of a tax-exempt body dine together while travelling on business overnight and are subsequently reimbursed by their employer.

The reimbursement of the meal expenses does not amount to entertainment and would be income tax deductible to the employer. Therefore, the reimbursement of the meals is not tax-exempt body entertainment, but is an expense payment fringe benefit. The taxable value of the meals is reduced to nil because the meals would have been 'otherwise deductible' to the employees.

EXAMPLE: Meals provided to employees while on business travel overnight are entertainment

Two employees of a tax-exempt body have dinner together while travelling on business overnight. They see a show at the casino in the city where they are staying, and the fee to see the show includes dinner. Their employer reimburses them for the cost of the show entry (which includes meals).

This expenditure is entertainment, and is therefore tax-exempt body entertainment. The expense payment fringe benefit valuation rules could not apply in this circumstance as this is a tax-exempt body entertainment fringe benefit.

Food and drink provided to employees at work functions

Where your employees are required to attend work functions as part of their employment duties, you will need to examine the circumstances of the situation and what duties are being performed by your employee in order to determine if entertainment has been provided. The fact that an employee is required to attend a function does not by itself mean that entertainment has not been provided.

For example, depending on the standard of entertainment provided, the benefit may qualify for the minor benefits exemption. As well as the general criteria for deciding whether a minor benefit should be treated as an exempt benefit, for tax-exempt bodies the exemption is available only where the provision of the entertainment is incidental to the provision of entertainment to outsiders and does not consist of a meal, other than light refreshments.

15.8 FBT IMPLICATIONS OF TAX-EXEMPT BODIES PROVIDING FOOD AND DRINK

The following table summarises the FBT implications of tax-exempt bodies providing food and drink.

Circumstances in which food or drink provided (either on or off business premises)	Meal Entertainment Yes/No	Fringe benefits tax arises?		
		For employees Yes/No	For associates Yes/No	For clients Yes/No
At a social function (eg, a staff Christmas party)	Yes	Yes	Yes	No
In an in-house dining facility (not at a social function)	No	No	Yes	No
In an in-house dining facility (at a social function)	Yes	Yes	Yes	No
Morning and afternoon teas and light lunches	No	No	Yes	No
At a social function or business lunch	Yes	Yes	Yes	No
Employee on business travel overnight and dining by themselves or with an employee, employee of an associate or client who is also on business travel overnight (regardless of who pays)	No	No	Yes	No
Employee on business travel overnight dining with employee not on business travel overnight (employer pays for all meals)				
Travelling employee's meal	No	No	–	–
Non-travelling employee's meal	Yes	Yes	–	–
Employee on business travel overnight dining with client who is not on business travel overnight				
Travelling employee's meal	No	No	–	–
Client's meal	Yes	–	–	No

15.9 TAXABLE VALUE OF FOOD AND DRINK THAT IS TAX-EXEMPT BODY ENTERTAINMENT

The taxable value of the food and drink, and the associated accommodation or travel, is the amount of the actual expenditure you incur for the benefit of the employee. In calculating the taxable value of a tax-exempt body entertainment fringe benefit there is no reduction for contributions that may be made by an employee.

If you cannot easily determine the actual expenditure, you can use a 'per head' basis of apportionment.

You may elect to value the food, drink and associated accommodation or travel as 'meal entertainment'. If you make this election, you cannot use the per head basis of apportionment.

EXAMPLE: Per head basis of apportionment

Mary entertains three of her employer's clients at a local restaurant. Her employer is a tax-exempt body who has not elected to treat entertainment as 'meal entertainment'. Mary pays, and is reimbursed, for the full cost of the meals. The benefit provided to Mary is a tax-exempt body entertainment fringe benefit. The taxable value of that benefit is 25% of the amount reimbursed to Mary.

15.10 MEAL ENTERTAINMENT FRINGE BENEFITS

Where tax-exempt body entertainment fringe benefits arise from the provision of meal entertainment, you may choose to classify these fringe benefits as meal entertainment fringe benefits. If you choose to classify a fringe benefit as a meal entertainment fringe benefit, you have to classify all fringe benefits arising from the provision of meal entertainment during the FBT year as meal entertainment fringe benefits.

Specifically, the provision of meal entertainment fringe benefits means:

- providing entertainment by way of food or drink
- providing accommodation or travel connected with such entertainment, or
- paying or reimbursing expenses incurred by an employee for the above.

The provision of meal entertainment does not include the provision of entertainment by recreation.

If you elect to classify the provision of meal entertainment as a meal entertainment fringe benefit, the meal entertainment provided does not give rise to a tax-exempt body entertainment fringe benefit, or an expense payment, property or residual fringe benefit.

You cannot include meal entertainment provided by someone other than you in the election.

This means that if a fringe benefit arises from meal entertainment provided by someone other than you, you must value the fringe benefit according to the rules for that type of fringe benefit. It could, for example, be an expense payment, property, residual or tax-exempt body entertainment fringe benefit.

15.11 HOW TO CALCULATE THE TAXABLE VALUE OF A MEAL ENTERTAINMENT FRINGE BENEFIT

Tax-exempt bodies calculate the taxable value of a meal entertainment fringe benefit in the same way as income tax paying bodies. See chapter 14.8, for information about how to calculate the taxable value of a meal entertainment fringe benefit.

15.12 DO YOU PROVIDE RECREATIONAL ENTERTAINMENT?

Recreational entertainment includes amusement, sport and similar leisure time pursuits, for example, a game of golf, theatre or movie tickets, a joy flight or a harbour cruise.

If you provide recreational entertainment to your employees, you need to:

Step	Action	Chapter reference
1	Consider whether an exemption applies.	15.13
2	If no exemption applies, you need to decide how you're going to value the entertainment.	15.14
3	Keep the appropriate records.	15.15
4	If required, report an amount on the employee's payment summary.	15.16

15.13 IF THE BENEFIT IS RECREATIONAL ENTERTAINMENT, DOES AN EXEMPTION APPLY?

There are only limited circumstances in which an exemption applies to the provision of recreational entertainment.

PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services

Entertainment facility leasing expenses are exempt from FBT when incurred by PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services.

Hiring or leasing entertainment facilities

Entertainment facility leasing expenses are expenses you incur in hiring or leasing:

- a corporate box
- boats or planes for providing entertainment, or
- other premises or facilities for providing entertainment.

Expenses, or parts of expenses, that are not entertainment facility leasing expenses are:

- expenses attributable to providing food or beverages, and
- expenses attributable to advertising that would be an allowable income tax deduction.

Minor benefits exemption

Depending on the standard of entertainment provided, the benefit may qualify for the minor benefits exemption. As well as the general criteria for deciding whether a minor benefit should be treated as an exempt benefit (see 20.8), for tax-exempt bodies the exemption is available only where:

- the provision of the entertainment is incidental to the provision of entertainment to outsiders and does not consist of a meal, other than light refreshments, or
- a function is held on your business premises solely as a means of recognising the special achievements of your employee in a matter relating to the employment of your employee.

In these circumstances only benefits provided to your employee, and their associates, are exempt from FBT.

EXAMPLE: Provision of entertainment incidental to provision of entertainment to outsiders

A tax-exempt body hosts a fundraising movie premiere. Staff of the tax-exempt body attend to meet and greet ticket holders, usher ticket holders to their seats and to serve light refreshments. This will be an exempt minor benefit as the provision of the recreational entertainment is incidental to the provision of entertainment to people outside of the tax-exempt body.

15.14 TAXABLE VALUE OF RECREATIONAL ENTERTAINMENT

The taxable value of the recreation component of tax-exempt body entertainment is generally equal to the cost of the activity, for example, the entry fee for a golf day.

Where you provide tax-exempt body entertainment by hiring or leasing entertainment facilities, the taxable value is the cost of the activity, unless you elect to use the 50-50 split method.

50–50 split method

You may elect that the total taxable value of tax-exempt body entertainment fringe benefits arising from the use of entertainment facilities you hire or lease is 50% of all entertainment facility leasing expenses.

You must decide to use the 50–50 split method for entertainment facility leasing expenses no later than the day on which your FBT return is due to be lodged with the Tax Office or, if you do not have to lodge a return, by 21 May.

There is no need to notify the Tax Office of the method chosen as your business records are sufficient evidence of this.

15.15 KEEP THE APPROPRIATE RECORDS

You should record information relating to tax-exempt body entertainment so that the taxable value of the fringe benefit can be calculated. You should record:

- the date you provided the entertainment
- who is the recipient of the entertainment (are they an employee, associate of the employee or another person)
- the cost of the entertainment
- the kind of entertainment provided, and
- where the entertainment is provided.

Refer to chapter 4 for more information about record keeping requirements.

15.16 REPORTING REQUIREMENTS

Entertainment provided by way of food and drink, and benefits associated with that entertainment, such as travel and accommodation (regardless of which category is used to value the benefit) are excluded benefits for reporting purposes and so they are not included in your employees' reportable fringe benefits amount on their payment summary.

Expenses associated with hiring or leasing entertainment facilities are excluded fringe benefits for reporting purposes and are therefore not reportable.

Other types of recreational entertainment are subject to the reporting requirements. Examples include tickets provided to musicals and green fees for attendance at golf days.

Refer to chapter 5 for more information about reportable fringe benefits.

15.17 DO YOU PROVIDE A BENEFIT WHICH IS NOT ENTERTAINMENT OR TAX-EXEMPT BODY ENTERTAINMENT?

Where the benefit provided is not entertainment, or tax-exempt body entertainment, you must:

Step	Action	Chapter reference
1	Determine whether it is an expense payment, property or residual benefit.	15.18
2	Determine whether an exemption applies. If no exemption applies, it may be an expense payment, property or residual fringe benefit.	15.19
3	Keep the appropriate records.	4
4	If required, report an amount on the employee's payment summary.	5

15.18 IS THE BENEFIT AN EXPENSE PAYMENT, PROPERTY OR RESIDUAL BENEFIT?

Where the benefit provided is not entertainment, or tax-exempt body entertainment, it may be an expense payment, property or residual fringe benefit.

Expense payment fringe benefits

You may provide expense payment fringe benefits if an employee incurs expenses and:

- you reimburse them for the expenses, or
- you pay a third party for the expenses.

Property fringe benefits

A property fringe benefit may arise when you provide an employee with property, either free or at a discount.

Residual fringe benefits

Any fringe benefit not subject to any of the other rules is a residual fringe benefit. Essentially, these are the fringe benefits that are left over because they are not one of the more specific categories of fringe benefit.

A residual fringe benefit could include the use of property.

> For information about:
> - expense payment fringe benefits, refer to chapter 9
> - property fringe benefits, refer to chapter 17, and
> - residual fringe benefits, refer to chapter 18.

15.19 IF THE BENEFIT IS NOT ENTERTAINMENT, OR TAX-EXEMPT BODY ENTERTAINMENT, DOES AN EXEMPTION APPLY?

An exemption may apply in the following circumstances.

Property benefit exemption

Where you provide food or drink which is **not meal entertainment**, this is a property benefit. Where the food and drink (which is a property benefit) is provided to, and consumed by, the employee on your business premises on a working day it is exempt from FBT. Only the food and drink provided to your employee is exempt in these circumstances. Food and drink provided to an associate of your employee in these circumstances is still subject to FBT.

> A tax-exempt body entertainment fringe benefit is a specific type of benefit. If a benefit is a tax-exempt body entertainment fringe benefit, it is not a property fringe benefit.

Minor benefits exemption

Depending on the standard of benefit provided, the benefit may qualify for the minor benefits exemption. See 20.8 for more information about the minor benefits exemption.

> MORE INFORMATION
> - Taxation Ruling TR 97/17 and Addendum – Income tax and fringe benefits tax: entertainment by way of food or drink
> - Taxation Ruling IT 2675 – Income tax and fringe benefits tax: entertainment – morning and afternoon teas; light meals; and in-house dining facilities.
> - Taxation Determination TD 94/25 and Addendum – Fringe benefits tax: where an employer provides entertainment to both employees and non-employees, what is an acceptable method of determining the portion applicable to the employees for the purposes of the *Fringe Benefits Tax Assessment Act 1986*?
> - Taxation Determination TD 93/195 – Income tax: to what extent is a registration fee for a Continuing Professional Development (CPD) seminar deductible if a part of the fee represents the cost of food and drink to be provided as part of the seminar?

16 CAR PARKING FRINGE BENEFITS

If you provide car parking spaces for use by your employees you may incur a car parking fringe benefit liability. This chapter lists the conditions that must be met for a car parking fringe benefit to arise, any exemptions, and the valuation rules for this type of benefit.

If you reimburse or pay for an employee's car parking costs this is not a car parking fringe benefit but may be an expense payment benefit.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

16.1 WHAT IS A CAR PARKING FRINGE BENEFIT?

Very broadly, a car parking fringe benefit may arise for each day on which you (the employer) provide a car parking space for the use of an employee.

Specifically, a car parking fringe benefit arises only if all of the following conditions are satisfied.

- A car is parked at premises that are owned or leased by, or otherwise under the control of, the provider (usually you as the employer).
- Within a **one-kilometre radius** of the premises on which the car is parked, there is a **commercial parking station** that charges a fee for all-day parking, which is more than the **car parking threshold**.
- The car is parked for a total of more than four hours between 7.00am and 7.00pm on the day.
- The car is owned by, leased to, or otherwise under the control of, an employee, or is provided by you.
- The parking is provided in respect of the employee's employment.
- The car is parked at or near the employee's **primary place of employment** on that day.
- The car is used by the employee to travel between home and work (or work and home) at least once on that day.
- The commercial parking station referred to above must also, at the beginning of the FBT year, charge a **representative** fee for all-day parking that is more than the **car parking threshold**.

Car

The meaning of 'car' is described in 7.1.

Commercial parking station

A commercial car parking station is one that charges a fee for all-day parking, is permanent, and is commercial (that is, it operates with a view to making a profit).

All-day parking

All-day parking means parking for a continuous period of at least six hours between 7.00am and 7.00pm.

One-kilometre radius

The one-kilometre distance is measured not by radius but by the shortest practicable direct route (by whatever means this route is travelled, for example, by foot, car or boat).

Primary place of employment

The employee's primary place of employment is your premises at which the employee performs the majority of their employment-related duties on a particular day.

Car parking threshold

The car parking threshold is indexed in line with movements in the consumer price index and published in a determination by the Tax Office each year. The table below lists the car parking thresholds from 2000 to 2007.

Year ending 31 March	Threshold
2007	$6.62
2006	$6.43
2005	$6.28
2004	$6.16
2003	$5.96
2002	$5.79
2001	$5.46
2000	$5.31

Representative fee

The fee for any particular day is not representative if it differs substantially from the average lowest fee ordinarily charged for all-day parking. For this purpose, you can compare the fee for a particular day with the average fee charged during a four-week period beginning or ending on that particular day.

EXAMPLE

An employee of a company has a car provided by the company and is allowed to park the car in the basement of the company's building. The employee uses the car to drive to and from work each day. Other employees use the car during the day for business purposes. There is a parking station within one kilometre that charged more than $6.62 a day on 1 April 2006.

On a particular day the car is parked in the basement for three hours and taken out by the employee to visit clients. The employee does not return to work that day but goes straight home after visiting the last client. As the car is not parked in the basement for more than four hours, a car parking fringe benefit is not provided on that day.

On a different day the car is parked in the basement for three hours before another employee takes it out and uses it for deliveries. The car is returned in the afternoon and parked in the basement for another two hours. As the car is parked on the employer's premises for more than four hours between 7.00am and 7.00pm, a car parking fringe benefit has been provided.

16.2 TAXABLE VALUE – SUMMARY OF METHODS

There are five ways you can calculate the taxable value of a car parking fringe benefit:

- the **commercial parking station method** – you must keep records of the actual number of car parking fringe benefits provided
- the **market value method** – you must keep records of the actual number of car parking fringe benefits provided
- the **average cost method** – you must keep records of the actual number of car parking fringe benefits provided
- the **12-week register method** – once every five years, you must keep records of the use of car parking spaces for a 12-week period, and value the use as if you had used the commercial parking station method, the market value method or the average cost method, and
- the **statutory formula method** – 228 car parking fringe benefits are deemed to arise from the use of each car parking space during the course of the FBT year and are valued in a way similar to the commercial parking station method, the market value method or the average cost method.

The commercial parking station method must be used unless you elect to use one of the alternative methods. You must decide to use an alternative method no later than the day on which your FBT return is due to be lodged with the Tax Office or, if you do not have to lodge a return, by 21 May. You may elect to use an alternative method for any or all of your car parking spaces. The use of a particular method in a previous year does not affect what methods you choose in subsequent years.

16.3 TAXABLE VALUE – THE COMMERCIAL PARKING STATION METHOD

The taxable value of a car parking fringe benefit is the lowest fee charged for all-day parking on that day by any commercial parking station within a one-kilometre radius of the premises on which the car is parked. This is reduced by any amount the employee pays towards the cost of the fringe benefit.

Lowest fee for all-day parking

Where all-day parking fees are paid for on a weekly, monthly, yearly or other periodic basis, you can determine an equivalent daily rate by dividing the total fee by the number of business days in the period. For this purpose, a business day is a day other than a Saturday, Sunday or public holiday. For example, if a commercial parking station offers all-day parking for $8 a day or $30 a week, the lowest all-day parking fee charged by that parking station is $6.

EXAMPLE

An employee of a company is allowed to park his privately owned car in the basement of the company's building for three weeks (five days a week). There are two permanent all-day commercial car parking stations within one kilometre of the employer's building. The employee drives the car from home to work each day and parks it there for more than four hours each day between 7.00am and 7.00pm. There is no employee contribution.

At the beginning of the FBT year and also during the three-week period, parking station number one charges $5.50 a day and parking station number two charges $7.00 a day. Since there is a car parking station that charged more than the car parking threshold of $6.62 on 1 April 2006, there is a fringe benefit. To calculate the taxable value, the employer can use the lowest rate, that is, $5.50.

The taxable value of the car parking fringe benefit provided is $82.50 (15 days × $5.50).

Number of benefits provided

The commercial parking station method provides the taxable value of a single car parking fringe benefit. You can obtain the exact number of benefits provided only from records of actual use.

For this method, the FBT law does not contain a specific rule for determining the actual number of car parking fringe benefits that may arise from each car parking space, nor for determining how many car parking spaces are in a given area.

Records
The following guidelines describe the minimum records acceptable to the Tax Office for car parking fringe benefits valued according to the commercial parking station method.

Basic records
The *minimum* record you should keep is a declaration relating to the FBT year. If you do not keep any other records, you will be subject to FBT on the basis that a car parking fringe benefit arose on each business day of the year for all the available car parking spaces.

There is no specific format for the declaration, but it must show:
- the number of car parking spaces available to be used by employees
- the number of business days in the FBT year
- the valuation method you have chosen to use, and
- the daily value of the car parking spaces.

Additional records
Where the number of employees parking on the premises is always less than the number of available parking spaces, you should keep an additional declaration showing the actual number of employees who park on the premises.

Also record the days when no car parking fringe benefits arise for a car parking space (for example, where employees are absent) or those that are not ordinary business days for your business.

You should also keep records that show when:
- more than one car parking benefit arises for a particular car parking space, such as with shift workers, and
- you provide car parking benefits to employees outside normal business hours, for example, on weekends.

16.4 TAXABLE VALUE – THE MARKET VALUE METHOD
The taxable value of a car parking fringe benefit is the market value of the car parking you actually provide, less any amount paid by the employee towards its cost. You must obtain a valuation report from a suitably qualified valuer to substantiate the market value.

Valuation report
The valuation report should include at least:
- the date of the valuation
- the precise description of the location of the car parking facilities valued (either the street address or block and section number)
- the number of car parking spaces valued and the value of the car parking spaces based on a daily rate
- the full name of the valuer and a description of their qualifications as a valuer
- the valuer's signature, and
- a declaration stating that the valuer is at arm's length from the valuation.

You must also be able to produce, when required, details of the basis on which the valuation was determined. This information may be set out in a separate valuer's report.

Suitably qualified valuer
A suitably qualified valuer is a person who has expertise in valuing parking facilities, through either relevant experience or attaining relevant professional qualifications. The valuer should be at arm's length from the valuation.

Number of benefits provided
The market value method provides the taxable value of a single car parking fringe benefit. You can obtain the exact number of benefits provided only from records of actual use.

For this method, the FBT law does not contain a specific rule for determining the actual number of car parking fringe benefits that may arise from each car parking space, nor for determining how many car parking spaces are in a given area.

Records
The following guidelines describe the minimum records acceptable to the Tax Office for car parking fringe benefits valued according to the market value method.

Basic records
The *minimum* record you should keep is a declaration relating to the FBT year. If you do not keep any other records, you will be subject to FBT on the basis that a car parking fringe benefit arose on each business day of the year for all the available car parking spaces.

There is no specific format for the declaration, but it must show:
- the number of car parking spaces available to be used by employees
- the number of business days in the FBT year
- the valuation method you have chosen to use, and
- the daily value of the car parking spaces.

Additional records
Where the number of employees parking on the premises is always less than the number of available parking spaces, you should keep an additional declaration showing the actual number of employees who park on the premises.

Also record the days when no car parking fringe benefits arise for a car parking space (for example, where employees are absent) or days that are not ordinary business days for your business.

You should also keep records that show when:

- more than one car parking benefit arises for a particular car parking space, such as with shift workers, and
- you provide car parking benefits to employees outside normal business hours, for example, on weekends.

16.5 TAXABLE VALUE – THE AVERAGE COST METHOD

The taxable value of a car parking fringe benefit is the average of the lowest fees charged on relevant days by any operator of a commercial parking station within a one-kilometre radius of the premises on which the car is parked. The relevant days are the first and last days on which you provided a benefit during the FBT year. The taxable value is reduced by the amount of the employee's contribution towards the benefit.

Average fees

Calculate the average of the lowest fees by adding the lowest fee for the first relevant day to the lowest fee for the second relevant day and then dividing the sum by two.

Lowest fees charged

The parking fees you use for this method must be representative. The fee for any particular day is not representative if it differs substantially from the average lowest fee ordinarily charged for all-day parking. For this purpose, you can compare the fee for a particular day with the average fee charged during a four-week period beginning or ending on that particular day.

For the purpose of averaging the lowest fees charged on each of the relevant days, it is not necessary to use the fees charged by the same commercial parking station operator. If there is more than one commercial parking station operator within a one-kilometre radius of the relevant premises, you may use the lowest fee charged by any of the operators on each of the relevant days.

Number of benefits provided

The average cost method provides the taxable value of a single car parking fringe benefit. You can obtain the exact number of benefits provided only from records of actual use.

For this method, the FBT law does not contain a specific rule for determining the actual number of car parking fringe benefits that may arise from each car parking space, nor for determining how many car parking spaces are in a given area.

Records

The following guidelines describe the minimum records acceptable to the Tax Office for car parking fringe benefits valued according to the average cost method.

Basic records

The *minimum* record you should keep is a declaration relating to the FBT year. If you do not keep any other records, you will be subject to FBT on the basis that a car parking fringe benefit arose on each business day of the year for all the available car parking spaces.

There is no specific format for the declaration, but it must show:

- the number of car parking spaces available to be used by employees
- the number of business days in the FBT year
- the valuation method you have chosen to use, and
- the daily value of the car parking spaces.

Additional records

Where the number of employees parking on the premises is always less than the number of available parking spaces, you should keep an additional declaration showing the actual number of employees who park on the premises.

Also record the days when no car parking fringe benefits arise for a car parking space (for example, where employees are absent) or those that are not ordinary business days for your business.

You should also keep records that show when:

- more than one car parking benefit arises for a particular car parking space, such as with shift workers, and
- you provide car parking benefits to employees outside normal business hours, for example, on weekends.

16.6 TAXABLE VALUE – THE 12-WEEK REGISTER METHOD

This method differs from the typical FBT valuation method, which provides the taxable value of a single fringe benefit. You are required to keep records of each fringe benefit as it is provided during the year and then value each fringe benefit individually. However, the 12-week register method gives a total taxable value for all the fringe benefits you have elected to value by this method.

You calculate the taxable value using the following formula.

$$\$A \times \frac{52}{12} \times \frac{B}{366}$$

Regardless of whether or not the year is a leap year, B is **always** divided by 366.

Where:

A = the total taxable value of all car parking fringe benefits provided during the 12 weeks the register is kept. The taxable value is worked out according to whether you have chosen to use the commercial parking station method, the market value method or the average cost method, explained in 16.3 to 16.5.

B = the number of days in the period of use of the car parking space. It begins on the first day in the FBT year on which you provide a car parking fringe benefit to an employee who is covered by the election, and ends on the last day in the FBT year on which you provide a car parking fringe benefit to that same employee.

EXAMPLE

An employer starts providing car parking fringe benefits on 1 October 2006 and continues to do so for the rest of the FBT year. A register kept for the necessary 12-week period reveals that 250 car parking fringe benefits were provided to employees covered by the election during the time the register was maintained. Using the market value method, the employer establishes that the taxable value of each car parking fringe benefit is $10.

For the purposes of the 12-week register method, the value of A is $2,500 (250 × $10) and the value of B is 182 days. Therefore the taxable value of the entire car parking fringe benefits provided during the FBT year to employees who are covered by the election is:

$$\$A \times \frac{52}{12} \times \frac{B}{366}$$

$$\$2{,}500 \times \frac{52}{12} \times \frac{182}{366} = \$5{,}387.06$$

Election

If you elect to use the 12-week register method, you must hold a valid register and specify in a written election whether the election covers all employees, a particular class of employees, or specific employees.

Valid register

You must keep the register for a continuous period of 12 weeks. The use of car parking facilities during this period must be representative of use during the first FBT year for which the register is valid.

Generally, a register is valid for the year in which you keep it and the four following years. However, if the period during which the register is kept begins in one FBT year and ends in the following FBT year, the register is valid only for the second year in which it is kept and the four following years.

If the number of car parking spaces (or the number of employees allowed to park if this is less) increases by more than 10% in a year, the register is not valid for any of the years following the year in which the increase occurred.

A register is not valid if:

- there is a later valid register for that FBT year covering the same employee
- it contains an entry that is false or misleading in a material particular
- the necessary details are not included in a register, or
- entries are not made as soon as practicable.

Details to be included in register

You must include the following details in a register:

- the date on which each car was parked
- whether the car was parked for a total time exceeding four hours
- whether the car travelled between the place of residence of an employee covered by the election and their primary place of employment on that day, and
- the place where the car was parked.

16.7 TAXABLE VALUE – THE STATUTORY FORMULA METHOD

Under the statutory formula method, 228 car parking fringe benefits are deemed to arise from each car parking space that is available to be used by an employee during the course of the FBT year. However, the result is reduced proportionately if the number of employees is less than the number of spaces.

Note that this method differs from the typical FBT valuation method, where you are required to keep records of each fringe benefit as it is provided during the year and then value each benefit individually. The statutory formula method gives a total taxable value for all of the fringe benefits you have elected to value by this method.

The statutory formula involves a four-step process. While this involves finding the taxable value of each daily benefit as if the commercial parking station method, market value method or average cost method applies (see 16.3 to 16.5), you treat employee contributions quite differently.

The four steps of the statutory formula method are as follows.

Step	Action
1	Apply the following formula to each car parking space used by an employee who is covered by your election to use this method: $\$A \times \frac{B}{366} \times 228$ Where: **A** = the amount that would be the taxable value of one car parking fringe benefit if you used the commercial parking station method, market value method or average cost method and there was no employee contribution (a car parking fringe benefit arises from the use of one space during one day by one employee), and **B** = the number of days in the period of use of the car parking space. This period begins on the first day in the FBT year on which you provide a car parking fringe benefit to an employee who is covered by the election and ends on the last day in the FBT year on which you provide a car parking fringe benefit to that same employee.
2	Obtain the total of all the amounts calculated under step 1. If the average number of employees covered by the election is less than the average number of spaces made available to those employees, divide the total of all amounts calculated under step 1 by the average number of spaces made available, and multiply by the average number of employees covered by the election.
3	Obtain the total of all employee contributions for all employees covered by your election to use this method.
4	Reduce the step 2 amount by the step 3 amount. The amount remaining is the taxable value of the entire car parking fringe benefits that you elected to value under this method.

Regardless of whether or not the year is a leap year, **always** divide B (in step 1) by 366.

Election

If you elect to use the statutory formula method, you must specify in a written election whether the election covers all employees, a particular class of employees, or specific employees.

Average number of employees covered by the election

To obtain the average number of employees, add the number of employees covered by the election at the beginning of the parking period to the number of employees covered by the election at the end of the parking period, and then divide the sum by two.

The number of employees you use for this method must be representative. On any particular day, the number of employees is representative if it is substantially the same as the average number of employees covered by the election during a four-week period beginning or ending on that particular day.

Average number of spaces made available

You obtain the average number of spaces by:

- counting the number of spaces made available to employees covered by the election at the beginning of the parking period, and
- counting the number of spaces made available to employees covered by the election at the end of the parking period, and then
- adding (1) and (2) together and dividing the total by two.

The number of spaces you use for this method must be representative. On any particular day, the number of spaces is representative if it is substantially the same as the average number of spaces available to employees covered by the election during a four-week period beginning or ending on that particular day.

EXAMPLE

An employer starts providing car parking fringe benefits on 1 October 2006 and continues to do so for the 182 days to 31 March. The employer elects to use the statutory formula method. The employer has four car parking spaces available for use by three employees. Using the average cost method, the employer establishes that the taxable value of each car parking fringe benefit is $10.

The employees are required to make employee contributions of $30 each a week for 26 weeks.

Now apply the four steps of the statutory formula method.

Step	Action
1	Apply the following formula to each car parking space used by an employee who is covered by the employer's election to use this method: $\$A \times \frac{B}{366} \times 228$ Where: A = the amount that would be the taxable value of one car parking fringe benefit if the commercial parking station method, the market value method or the average cost method was used and there was no employee contribution (a car parking fringe benefit arises from the use of one space during one day by one employee), that is, $10. B = the number of days in the period of use of the car parking space. This period begins on the first day in the FBT year on which a car parking fringe benefit is provided to an employee who is covered by the election and ends on the last day in the FBT year on which a car parking fringe benefit is provided to that same employee, that is, 182 days. $\$10 \times \frac{182}{366} \times 228 = \$1{,}133.77$
2	Obtain the total of all the amounts calculated under step 1. $1,133.77 × 4 = $4,535.08 If the average number of employees covered by the election is less than the average number of spaces made available to those employees, divide the total of all the amounts calculated under step 1 by the average number of spaces available and multiply by the average number of employees covered by the election. ($1,133.77 × 4) / 4 × 3 $4,535.08 / 4 × 3 = $3,401.31
3	Obtain the total of all employee contributions for all employees covered by the employer's election to use this method. $30 × 26 weeks × 3 employees = $2,340
4	Reduce the step 2 amount by the step 3 amount. The amount remaining is the taxable value of the entire car parking fringe benefits the employer elected to value under this method. $3,401.31 – $2,340 = $1,061.31 $1,061.31 is the taxable value of the car parking fringe benefits the employer has elected to value under the statutory formula method.

Regardless of whether or not the year is a leap year, **always** divide B (in step 1) by 366.

16.8 CAR PARKING EXPENSE PAYMENT FRINGE BENEFITS

Where you reimburse or pay for an employee's car parking costs, this is not a car parking fringe benefit, but may be a car parking expense payment benefit (see 9.9).

16.9 EXEMPT BENEFITS – MOTOR VEHICLE PARKING

The following car parking benefits provided to employees are exempt from FBT:

- residual benefits
- certain expense payment benefits
- parking for the disabled, and
- benefits provided by certain employers.

Residual benefits

Parking you provide that does not satisfy all of the criteria set out in 16.1 is a residual benefit that is exempt from FBT.

Expense payment benefits

If you pay or reimburse a car parking expense incurred by an employee, this is exempt from FBT if the expense is not **a car parking expense payment fringe benefit** as described in 16.8.

Parking for the disabled

Car parking you provide for a car used by a disabled employee is exempt from FBT if the disabled employee is legally entitled to use a disabled person's parking space and has a valid disabled person's car parking permit displayed on the car.

Exempt employers

The following employers who are otherwise liable to pay FBT are exempt from car parking fringe benefits and car parking expense payment benefits:

- a scientific institution (other than an institution run for the purposes of profit or gain to its shareholders or members)
- a religious institution
- a charitable institution
- a public educational institution, and
- a government body, but only in relation to an employee who is employed exclusively in, or in connection with, a public educational institution.

16.10 EXEMPT BENEFITS – SMALL BUSINESS CAR PARKING

If you are a small business employer, car parking benefits you provide are exempt if:

- the parking is not provided in a commercial car park
- you are not a government body, a listed public company, or a subsidiary of a listed public company, and
- your total income for the last income year before the relevant FBT year was less than $10 million. For this purpose, your income includes ordinary income and statutory income as defined in the Income *Tax Assessment Act 1997*, that is, total gross income before any deductions.

MORE INFORMATION

- Taxation Ruling TR 96/26 – *Fringe benefits tax: car parking fringe benefits.*
- Taxation Determination TD 2005/18 – *Fringe benefits tax: for the purposes of section 39A of the* Fringe Benefits Tax Assessment Act 1986 *what is the car parking threshold for the fringe benefits tax year commencing on 1 April 2005?*
- Taxation Determination TD 2006/37 – *Fringe benefits tax: for the purposes of section 39A of the* Fringe Benefits Tax Assessment Act 1986 *what is the car parking threshold for the fringe benefits tax year commencing on 1 April 2006?*

17 PROPERTY FRINGE BENEFITS

This chapter explains what a property fringe benefit is, the different valuation rules that are used for calculating the taxable value of property fringe benefits and when an exemption may apply.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

17.1 WHAT IS A PROPERTY FRINGE BENEFIT?

A property fringe benefit arises when you (the employer) provide an employee with free or discounted property.

For FBT purposes, **property** includes:

- goods (including gas and electricity, unless provided through a reticulation system) and animals
- real property, such as land and buildings, and
- choses in action, such as shares or bonds.

Benefits specifically covered by earlier chapters of this guide are excluded from being property fringe benefits.

17.2 TAXABLE VALUE – OVERVIEW OF VALUATION RULES

The taxable value of a property fringe benefit depends on which valuation rule applies. Each valuation rule allows you to reduce the taxable value by the amount of any employee contribution. Each rule recognises different circumstances, such as:

- whether the benefit is an **in-house property fringe benefit** or an **external property fringe benefit**
- if the benefit is an **in-house property fringe benefit**, whether the property:
  - was purchased for resale or was manufactured
  - is identical to, or merely similar to, property sold by you (or other provider) in the ordinary course of business at or about the time the benefit is provided
  - is normally sold directly to the public or to customers who sell to the public, and
- if the benefit is an **external property fringe benefit**, whether the benefit was provided by you or an associate (rather than a third party), and whether expenditure was incurred in providing the benefit.

17.3 TAXABLE VALUE – IN-HOUSE PROPERTY FRINGE BENEFITS

An in-house property fringe benefit must satisfy all of the following requirements:

- where you (or an associate) provide the benefit, the property must be identical or similar to property you sell in the ordinary course of business
- where you (or an associate) do *not* provide the benefit, the property must be acquired by the provider from you (or an associate) and must be identical or similar to property sold by both you (or an associate) and the provider in the ordinary course of business at or about the time the benefit is provided, and
- the property must consist of **goods**. For this purpose, **goods** include such things as animals and non-reticulated gas and electricity, but not such things as real estate, buildings or shares.

Goods manufactured or produced by the provider

These valuation rules apply to an in-house property fringe benefit consisting of goods manufactured, produced, processed or otherwise treated by you (or other provider) as part of your business.

The valuation rules differ depending on whether you normally supply the goods on a retail or non-retail basis, and whether the goods are identical or merely similar.

Non-retail goods (identical)

These are goods you normally supply to manufacturers, wholesalers or retailers (that is, not directly to the public).

The goods provided as the fringe benefit must be identical to the goods sold in the ordinary course of business at or about the time you provide the benefit.

The taxable value is your lowest arm's length selling price under which your goods are sold or could reasonably be expected to have been sold, at or about the time you provide the benefit, reduced by any employee contribution. Where you provide a discount for early payment, the discounted price is used when determining the taxable value of the goods.

EXAMPLE

A manufacturer of electrical goods provides an item of stock to an employee (that is, identical to goods sold to wholesalers). The manufacturer usually sells the item for $1,000, including GST, to wholesalers. Each invoice provided allows for a discount of 5% for early payment, if the invoice is paid within seven days.

If the wholesaler pays within seven days, they will pay $950 for the item. However, if the wholesaler does not pay within seven days, they will pay $1,000 for the item.

The lowest arms length selling price is $950.

Retail goods (identical)

These are goods normally supplied to the public. Where you normally sell goods on both a retail and non-retail basis, value the benefit using the non-retail rules above.

The goods provided as the fringe benefit must be identical to the goods sold in the ordinary course of business at or about the time you provide the benefit.

The taxable value is 75% of the lowest selling price you charge the public in the ordinary course of business, at or about the time you provide the benefit, reduced by any employee contribution. Where you provide a discount for early payment, the discounted price is used when determining the taxable value of the goods.

EXAMPLE

An employer manufactures desks for sale to the public and the lowest selling price of this type of desk to the public is $900, including GST.

An employee purchases a desk for $500.

The taxable value of the property fringe benefit is (75% × $900) – $500 = $175.

Other goods (similar but not identical)

Where goods are similar but not identical to those sold as part of your business at or about the time you provide the benefit (for example, manufacturing seconds), the taxable value is 75% of the notional value of the goods, reduced by any employee contribution.

'Notional value' (or market value) is the amount the employee could reasonably expect to pay in an arm's length transaction.

EXAMPLE

A sporting goods manufacturer makes squash racquets for sale by wholesale.

Sometimes racquets are damaged in the manufacturing process. Instead of bringing the normal arm's length selling price (including GST) of $50, the damaged racquets have a market value of $30 each.

An employee purchases a damaged racquet for $5.

The taxable value of the property fringe benefit is (75% × $30) – $5 = $17.50.

Goods purchased and sold as part of the employer's business

These valuation rules apply to an in-house property fringe benefit consisting of goods you purchase for resale as part of your business.

The taxable value is the lesser of:

- the arm's length purchase price of the goods to you, or
- the market value of the goods, where the goods have lost value at the time they are provided to your employee, for example because of obsolescence or deterioration,

reduced by any employee contribution.

Market value is the amount the employee could reasonably expect to pay in an arm's length transaction.

EXAMPLE

A retailer purchases television receivers for $500 for sale to the public at a retail price of $750. The wholesaler paid GST on the sale to the retailer. An employee pays $400 for a receiver under the staff discount purchase scheme.

The taxable value of the property fringe benefit is $500 – $400 = $100.

Any other in-house property fringe benefits

This valuation rule applies to any in-house property fringe benefits that do not fall within the preceding categories, that is, goods that are neither purchased for resale nor manufactured, or processed.

However, the goods must be of a type that satisfies the in-house property fringe benefit requirements set out at the beginning of 17.3.

The taxable value is 75% of the notional or market value of the goods, reduced by any employee contribution. Notional or market value is the amount the employee could reasonably be expected to pay in an arm's length transaction.

17.4 TAXABLE VALUE – EXTERNAL PROPERTY FRINGE BENEFITS

An external property fringe benefit is any property fringe benefit that is not an in-house property fringe benefit.

For example, a property fringe benefit is an external property fringe benefit if the property does not consist of goods that are similar or identical to those you sell in the ordinary course of business.

Where:

- you (or an associate) provide the benefit and the benefit consists of property you purchased under an arm's length transaction at or about the time you provided the benefit, the taxable value is the cost price to you, reduced by any employee contribution
- you (or an associate) do *not* provide the benefit but you (or an associate) incur expenditure to the provider under an arm's length transaction for the property benefit, the taxable value is the amount of that expenditure, reduced by any employee contribution
- neither of the above rules apply, the taxable value is the amount the employee could reasonably be expected to pay to acquire the property under an arm's length transaction, reduced by any employee contribution.

Where you receive an early payment discount, the discounted price is used for determining the taxable value.

17.5 REDUCTION IN TAXABLE VALUE WHERE EXPENDITURE WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE

You can reduce the taxable value of a property fringe benefit in accordance with the 'otherwise deductible' rule, but only if the recipient of the benefit is the employee. Broadly, this means that you may reduce the taxable value by the amount the employee would have been entitled to claim as an income tax deduction if:

- the property had not been provided as a fringe benefit, and
- the employee had purchased the property.

For example, if an employee purchased an item of property and used it only to perform employment-related duties, the purchase price would be wholly deductible for income tax purposes. Under the otherwise deductible rule, if you purchased the same item and gave it to the employee to use in performing employment-related duties, the taxable value of the property fringe benefit would be nil, regardless of the amount of employee contribution you required.

The otherwise deductible rule does not apply to deductions for the decline in value of depreciating assets, except when the cost is less than $301.

There are special rules where the expenditure that would have been deductible to the employee is incurred in relation to a car (see 17.7).

Applying the otherwise deductible rule produces different results depending on whether any employee contribution was intended to be for the private element of the property fringe benefit. This is because the employee is entitled to an income tax deduction for expenditure incurred on the portion of the property used to derive assessable income, but not for expenditure incurred on the portion used for a private or domestic purpose.

You can apply the otherwise deductible rule using the following steps.

Step	Action
1	Disregard any employee contribution and calculate the taxable value of the property fringe benefit as if there was no employee contribution.
2	Now suppose that the employee had purchased the property for an amount equal to the amount of the taxable value calculated in step 1. How much of this hypothetical purchase price would have been income tax deductible to the employee?
3	Now look at the actual fringe benefit situation. If the employee has made a contribution towards the property fringe benefit, how much of this contribution is allowable as an income tax deduction to the employee (that is, how much of the employee contribution relates to the business use component of the property fringe benefit)?
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.

Therefore, where the otherwise deductible rule applies, the taxable value of a property fringe benefit is:

- the amount that would have been the taxable value if no employee contribution had been made, reduced by
- the amount of any actual employee contribution; this result is then further reduced by
- the amount obtained at step 4 of the otherwise deductible rule.

EXAMPLE

An employee is provided with goods to the value of $500. The employee contribution of $250 is set without regard to how the employee intends to use the property.

The employee uses the goods 80% for employment-related (and income tax deductible) purposes and 20% for private purposes.

The taxable value of the property fringe benefit (without the otherwise deductible rule) is $250 (that is, $500 reduced by the employee contribution of $250).

Apply the otherwise deductible rule as follows.

Step	Action	Result
1	Disregard any employee contribution and calculate the taxable value of the property fringe benefit as if there was no employee contribution.	$500
2	Now suppose that the employee had purchased the property for an amount equal to the amount of the taxable value calculated in step 1. How much of this hypothetical purchase price would have been income tax deductible to the employee?	$500 × 80% = $400
3	Now look at the actual fringe benefit situation. If the employee has made a contribution towards the property fringe benefit, how much of this contribution is allowable as an income tax deduction to the employee (that is, how much of the employee contribution relates to the business use component of the property fringe benefit)?	$250 × 80% = $200
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.	$400 – $200 = $200
5	Finally, the taxable value of $250 may be reduced by $200.	$250 – $200 = $50

EXAMPLE

An employee is provided with goods to the value of $500. The employee intends to use the property 50% for employment-related (and income tax deductible) purposes and 50% for private purposes.

The employee contribution of $250 is set by the employer after considering how the employee intends to use the goods. That is, the employer knows that under the otherwise deductible rule there will be no FBT liability on that part of the fringe benefit used to produce income. So the employer calculates an employee contribution that is sufficient to avoid incurring FBT on that part of the fringe benefit used for private or domestic purposes.

At the end of the FBT year the employee finds that the goods have been used 80% for employment-related (and income tax deductible) purposes and 20% for private purposes.

The taxable value of the property fringe benefit (without the otherwise deductible rule) is $250 (that is, $500 reduced by the employee contribution of $250).

Apply the otherwise deductible rule as follows.

Step	Action	Result
1	Disregard any employee contribution and calculate the taxable value of the property fringe benefit as if there was no employee contribution.	$500
2	Now suppose that the employee had purchased the property for an amount equal to the amount of the taxable value calculated in step 1. How much of this hypothetical purchase price would have been income tax deductible to the employee?	$500 × 80% = $400
3	Now look at the actual fringe benefit situation. If the employee has made a contribution towards the property fringe benefit, how much of this contribution is allowable as an income tax deduction to the employee (that is, how much of the employee contribution relates to the business use component of the property fringe benefit)? If the employer, in setting the amount of the employee contribution, had not allowed for the intended use of the goods, the employee would have paid a contribution of $500 and would have been entitled to a deduction for business use.	$500 × 80% business use = $400
	However, because the employer calculated the amount of the employee contribution after taking into account the intended business use and the effect of the otherwise deductible rule, the employee's income tax deduction is limited to the amount calculated as follows: The amount that would have been allowed as a deduction to the employee if no allowance had been made for the income-producing purpose for which the property was to be used, reduced by the amount of the allowance that was made.	($500 × 80%) – ($500 × 50%) = $400 – $250 = $150
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.	$400 – $150 = $250
5	Finally, the taxable value of $250 may be reduced by $250	$250 – $250 = 0

17.6 SUBSTANTIATION REQUIREMENTS

Where you use the otherwise deductible rule, you must have documentation to substantiate the extent to which the purchase price of the property would have been 'otherwise deductible' to the employee. You must obtain the documentation from the employee before lodging the relevant FBT return. Where the documentation is a declaration by the employee, it must be in a form approved by the Commissioner as shown below.

Travel diary

A 'travel diary' is a diary or similar document that must be obtained from the employee where the property is provided:

- for travel within Australia for more than five nights and the travel is not exclusively for performing employment-related duties (the fact that business travel requires the employee to stay away over a weekend does not, in itself, mean the trip is not undertaken exclusively in the course of their employment), or
- for travel outside Australia for more than five nights.

A travel diary shows the nature of each work or business activity, where and when it took place, the duration of the activity and the date the entry was made.

The requirement to obtain a travel diary is waived where the employee is performing duties of employment as a member of an aircrew travelling outside Australia and the property provided is food or drink, or is for accommodation, or otherwise incidental to the travel.

Employee declaration

You must obtain an employee declaration except where:

- the property (other than property used in respect of a car owned or leased by the employee) is used exclusively in the course of performing employment-related duties (for example, protective clothing, tools of trade)
- there is a requirement to keep a travel diary
- the requirement to keep a travel diary is waived because the employee is a member of an international aircrew, or
- the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

The declaration must be in the form approved by the Commissioner. The approved property benefit declaration is shown here.

Property benefit declaration

I _____ declare that
name of employee)

_____
(show nature of the goods eg. stationery)

was provided to me by or on behalf of my employer during the period from _____ 20_____ to _____ 20_____

and that the property was used by me for the following purpose(s)

_____
(Please give sufficient information to demonstrate the extent to which the property was used by you for the purpose of earning your assessable income.)

I also declare that, had I purchased the property for its market value, I would have been entitled to claim an income tax deduction equal to _____ % of the purchase price.

Signature _____

Date _____

This declaration is also available on our website in PDF format.

Recurring fringe benefit declaration

The requirement to obtain an employee declaration is waived if the provision of a fringe benefit is covered by a recurring fringe benefit declaration.

A fringe benefit is covered by a recurring fringe benefit declaration if:

- it is provided no later than five years after the day on which the declaration was made
- the deductible proportion of the benefit is not significantly less than the deductible proportion of the benefit for which the declaration was first provided (a difference of more than 10 percentage points is regarded as being significant), and
- it is 'identical' to the fringe benefit for which the declaration was first made.

Benefits are to be treated as being identical if they are the same in all respects except for any differences that:

- are minimal or insignificant
- relate to the value of the benefits, or
- relate to the deductible proportion of the benefits.

A recurring fringe benefit declaration is automatically revoked by a later recurring fringe benefit declaration made for an identical benefit. This means that the earlier declaration applies to the first benefit and to any identical benefits provided before the later declaration was made. The later declaration applies to the benefit for which it was provided and to any identical benefits provided subsequently.

The declaration must be in a form approved in writing by the Commissioner. The employee must give you the declaration before the due date for lodging your FBT return or, if you are not required to lodge a return, by 21 May.

The approved recurring fringe benefit declaration is shown here.

Recurring property benefit declaration

I _____ declare that
(name of employee)

_____
(show nature of the goods, eg stationery)

was provided to me by or on behalf of my employer during the period from _____ 20_____ to _____ 20_____ and that the property was used by me for the following purpose(s)

_____
(Please give sufficient information to demonstrate the extent to which you used the property in earning your assessable income.)

I also declare that, had I purchased the property for its market value, I would have been entitled to claim an income tax deduction equal to _____ % of the purchase price.

I understand that this declaration is to apply to the above stated benefit and to any identical benefit for up to five years from the date of this declaration, or until the stated percentage incurred in earning my assessable income decreases by more than 10 percentage points. This declaration will also be revoked if another recurring property fringe benefit declaration is provided in respect of a subsequent identical benefit.

Signature _____

Date _____

Note:
Identical benefits are the same in all respects, except for any differences that are minimal or insignificant, or that relate to the value of the benefits or to a change in the deductible proportion of 10 percentage points or less.

This declaration is also available on our website in PDF format.

17.7 REDUCTION IN TAXABLE VALUE WHERE PROPERTY THAT WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE IS PROVIDED IN RELATION TO A CAR

Where you provide a property fringe benefit in relation to a car owned or leased by the employee, there are special rules for determining how much (if any) of your expenditure would have been 'otherwise deductible' to the employee.

These special rules are actually three different methods of calculating the amount of the expense that hypothetically would have been income tax deductible to the employee (that is, step 2 in the four-step procedure explained in 17.5). The differences arise from the extent to which the car is used for business or employment-related purposes, and/or the type of evidence available to substantiate that use.

The first method is substantiated by means of logbook records and/or odometer records. The second and third methods are substantiated by an employee declaration only.

Chapter 21 contains full details and the appropriate declaration. The employee declaration shown in 17.6 is not suitable for an expense incurred in relation to a car.

17.8 OTHER REDUCTIONS IN TAXABLE VALUE

A number of fringe benefits attract concessional treatment. The concession is a reduction in the taxable value of the fringe benefit that results in a reduced amount of FBT, or even no FBT, being payable.

You calculate the taxable value of a property fringe benefit in accordance with the valuation rules explained in 17.2 to 17.4. Where the otherwise deductible rule applies, you then reduce the taxable value as explained in 17.5.

If the fringe benefit is of a type that attracts any of the concessions listed below, you may then further reduce the taxable value. In some instances, special conditions must be satisfied before the concession applies, for example, keeping certain records.

The following is a list of reductions that may apply to property fringe benefits. Chapter 19 contains details of the reductions. The relevant reference for each concession is at:

- remote area residential fuel (19.2)
- remote area housing assistance (19.2)
- relocation – meals (19.4)
- in-house fringe benefits – tax-free threshold (19.5)
- living away from home – food provided (19.4).

17.9 EXEMPT PROPERTY BENEFITS

Payments to worker entitlement funds

Property fringe benefits arising from contributions you make to worker entitlement funds are exempt from FBT, provided the conditions in 20.6 are met.

Property provided and consumed on employer's premises

Property you provide to an employee is an exempt benefit if the property is both provided and consumed on your premises on a working day. (If you are a company, the premises may be those of a related company.) For example, there is no FBT on bread given to bakery employees for consumption at work.

> This exemption does not apply to employers that are exempt from income tax where entertainment arises as a result of providing the property benefit (see chapter 15).

Remote area – certain meals provided to employees in primary production

Property benefits arising from providing non-entertainment meals to an employee employed in a primary production business located in a remote area are exempt benefits (see 20.7).

> MORE INFORMATION
>
> - Taxation Ruling TR 1999/5 – Fringe benefits tax: employee benefit trusts and non-complying superannuation funds – meaning of 'associate' – property fringe benefit
> - Taxation Determination TD 93/90 – Income tax: does the 'otherwise deductible' rule apply to reduce the taxable value of fringe benefits provided to associates of employees?

18 RESIDUAL FRINGE BENEFITS

A residual fringe benefit is any fringe benefit that does not fall into one of the more specific categories of fringe benefit. This chapter provides information on how to calculate the taxable value of these benefits and the substantiation requirements for applying the otherwise deductible rule.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

18.1 WHAT IS A RESIDUAL FRINGE BENEFIT?

The term **fringe benefit** has a very broad meaning. It includes any right, privilege, service or facility provided in respect of employment.

Any fringe benefit that is not subject to the rules outlined in one of the preceding chapters of this guide is called a **residual fringe benefit**. Essentially, these are the fringe benefits that remain or are left over because they are not one of the more specific categories of fringe benefit.

A residual fringe benefit could include you (the employer) providing services such as travel or professional or manual work, or the use of property. It could also include providing insurance cover, for example, health insurance cover you take out for employees under a group policy.

Supply of goods integral to services

Generally, where a benefit consists of providing both goods and services, the goods component and the services component are valued separately. The goods component is valued as a property fringe benefit and the services component as a residual fringe benefit. However, in certain circumstances the benefit is valued solely under the rules contained in this chapter. These circumstances are where you (or other provider) are in a business where goods and services are supplied together (for example, carrying out repairs that involve supplying spare parts) and the benefit is of that kind. Where such a benefit is treated as a residual fringe benefit, it is excluded from the property fringe benefit rules.

18.2 WHEN A BENEFIT IS RECEIVED

As a general rule, residual fringe benefits are treated as having been received when, or over the period during which, the particular benefits are provided. For example, where a benefit consists of a licence to use particular property for six months, the benefit is treated as having been received over that period.

An exception to this applies where you provide the benefits in return for regular payments, generally on receipt of a periodic account. Where you provide benefits (such as discounted services) to an employee on the basis of regular billing, and you provide identical services to members of the public on the same basis, the services provided during each period are treated as a benefit provided when the periodic payment is due. For example, if electricity is supplied at a concessional rate on the basis of quarterly billing, the benefit is taken to have arisen for each quarter at the relevant billing due date.

18.3 TAXABLE VALUE

For valuation purposes, there are two types of residual fringe benefits: ***in-house* residual fringe benefits** and ***external* residual fringe benefits**. Each type has specific valuation rules.

The taxable value of a residual fringe benefit is the GST-inclusive value of the residual benefit (determined according to the appropriate valuation rule), less any employee contribution.

You calculate the taxable value of a residual fringe benefit in accordance with the valuation rules explained in 18.4 to 18.6. Where the 'otherwise deductible' rule applies, you reduce the taxable value, as explained in 18.7.

If a residual fringe benefit is of a type that attracts any of the concessions listed in 18.10, you may reduce the taxable value further. In some instances, special conditions may have to be satisfied before the concession applies, for example, keeping certain records.

Chapter 1 contains more information about GST and FBT.

18.4 IN-HOUSE RESIDUAL FRINGE BENEFITS

A residual fringe benefit is valued as an in-house residual fringe benefit if you (or an associate) provide the benefit and it is identical or similar to rights, services, facilities, etc you (or an associate) provide to the public in the ordinary course of business. Examples include professional advice provided free or at a discount by a law firm to its employees, and video recorders hired out to employees of a television rental firm at a discount.

A benefit provided under a contract of investment insurance does not qualify for valuation under these rules. Such a benefit is valued under the rules detailed below for **external residual fringe benefits**. A contract of investment insurance means a contract of life assurance under which a payment of money will be made if the person whose life is insured is alive on a specified date, whether or not the contract also insures the payment of money in any other event.

Taxable value of in-house residual fringe benefits

The taxable value of an in-house residual fringe benefit is 75% of the lowest arm's length price charged to the public at the time for identical benefits, less any amount paid by the employee.

Identical benefits are the same in all respects except for any differences that are minimal or insignificant, or that relate to the value of the benefits.

EXAMPLE

An employer who operates a television rental store allows an employee the use of a video recorder for three months during the FBT year.

The normal arm's length cost of an equivalent rental granted to a member of the public at that time is $100.

The employee is charged $50.

The taxable value is (75% × $100) – $50 = $25.

Where no identical benefits are provided to the public, the taxable value is 75% of the amount the employee could be expected to pay to acquire the benefit under an arm's length transaction, less any amount paid by the employee.

An example might be where an employer who charters boats to the public provides a boat for a trip by the employee's family under significantly different conditions of use from those that ordinarily apply to the public, such that there is a material difference in the value of the benefit.

Where the period during which the benefit is provided extends past the end of the FBT year, you apportion the taxable value between the two years on a pro rata basis.

18.5 EXTERNAL RESIDUAL FRINGE BENEFITS

Any residual fringe benefit that is not an in-house residual fringe benefit is an external residual fringe benefit.

Commonly, an external residual fringe benefit arises where:

- you provide the residual fringe benefit *but* the benefit is not of a kind provided to the public in the ordinary course of business, for example, a hairdresser provides his employees with health insurance cover under a group policy taken out for the benefit of the employees, or
- you arrange for the residual fringe benefit to be provided by a third party, for example, a solicitor arranges for an accountant to provide discounted services to the solicitor's employees.

Taxable value of external residual fringe benefits

Where you purchased the service, right, privilege, etc under an arm's length transaction, the taxable value is the cost price to you, less any employee contribution.

If the above rule does not apply, the taxable value is the amount the employee could reasonably be expected to pay to obtain the benefit under an arm's length transaction, reduced by any amount paid by the employee.

Where the period during which the benefit is provided extends past the end of the FBT year, you apportion the taxable value between the two years on a pro rata basis.

18.6 TAXABLE VALUE OF MOTOR VEHICLES OTHER THAN CARS

If the private use of the vehicle other than a car exceeds the limits set out in 7.6, the right to use the vehicle is a residual benefit.

The legislation does not require the same level of detail as is required for valuing car benefits. This takes into account the type of vehicles involved, their expected high business use, and their general lack of suitability for significant private use.

Detailed logbook requirements of the kind specified for calculating the value of car benefits are not required for vehicles other than cars. However, many businesses would maintain some form of logbook records and these should be used, where possible, in determining the extent of private use of the vehicle.

In the absence of such records, soundly based estimates of the number of private kilometres travelled are acceptable. For example, you could determine the home to work component of private use by multiplying the number of journeys during the year by the distance between the employee's residence and place of employment.

There are two methods for valuing the benefit:

- operating cost method – this is the same as the calculation for cars outlined in 7.5, or
- cents per kilometre basis – this method can be used only where there is extensive business use of the vehicle.

The following rates are for the FBT years ending 31 March 2005, 2006 and 2007:

Engine capacity	Rate per kilometre 2005	Rate per kilometre 2006	Rate per kilometre 2007
0 to 2,500cc	38 cents	39	40
Over 2,500cc	46 cents	47	48
Motor cycles	11 cents	12	12

The methods assume that you provide the vehicle on a fully maintained basis, including fuel. Where it is the employee's responsibility to provide fuel, the value of the benefit is based on the operating costs, excluding fuel. If the cents per kilometre method is used and there are no specific records, it is acceptable to multiply the number of private kilometres travelled by the estimated fuel costs per kilometre (based on average fuel costs and average fuel consumption of the vehicle) and reduce the value of the benefit accordingly.

A reduction for business travel applies only where you obtain a declaration from the employee. The declaration must be in a form approved by the Commissioner, specifying the deductible percentage of the operating costs, that is, the business proportion of total kilometres travelled. If using the cents per kilometre method, it is acceptable for the declaration to state the number of private kilometres travelled rather than the deductible percentage.

The approved employee declaration for a vehicle other than a car is shown here.

Residual benefit declaration – vehicles other than cars

I _____

declare that during the period _____ 20_____ to _____ 20_____

_____

(show details of vehicle)

was provided to me by or on behalf of my employer.

The total number of private kilometres travelled was _____ or

I would have been entitled to claim an income tax deduction equal to _____ % of the operating costs.

Signature _____

Date _____

The declaration is available on our website in PDF format.

EXAMPLE

An employee takes their employer's one-tonne utility home each day and has private use of the vehicle in the evenings and on weekends. The employee has estimated his home to work, evening and weekend travel at 100 kilometres a week (5,200 kilometres a year) and has provided a declaration to the employer. The employee does not make any employee contributions.

The vehicle travelled a total of 52,000 kilometres during the FBT year and the operating costs, including deemed interest and depreciation, were $20,080.

Cents per kilometre method

Taxable value = A × B – C

Where:

A = number of private kilometres travelled

B = rate per kilometre

C = the employee contribution (direct contributions only, not fuel).

Taxable value = (5,200 km × 48 cents per km) – $0

= $2,496

Operating cost method

Taxable value = A × B – C

Where:

A = the total operating costs

B = the percentage of private use

C = the employee contribution (direct contributions only, not fuel).

Taxable value = ($20,080 × 10%) – $0

= $2,080

18.7 REDUCTION IN TAXABLE VALUE WHERE EXPENDITURE WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE

The taxable value of a residual fringe benefit may be reduced in accordance with the otherwise deductible rule, but only if the recipient of the benefit is the employee. Broadly, this means that you may reduce the taxable value by the amount the employee would have been entitled to claim as an income tax deduction if both of the following conditions are satisfied:

- the residual benefit has not been provided as a fringe benefit, and
- the employee acted as a consumer or member of the public in purchasing the service or privilege, etc which comprises the residual benefit.

For example, if an employee hired an item of property and used it only to perform employment-related duties, the hire cost would be wholly deductible for income tax purposes. Under the otherwise deductible rule, if you hired the same item and made it available to the employee to use in performing their employment-related duties, the taxable value of this residual fringe benefit would be nil, regardless of the amount of employee contribution you required.

There are special rules where the expenditure that would have been deductible to the employee is incurred in relation to a car (see 18.9).

Applying the otherwise deductible rule produces different results depending on whether any employee contribution was intended to be for the private element of the residual fringe benefit. This is because the employee is entitled to an income tax deduction for expenditure incurred on the portion of the residual benefit used to derive their assessable income, but not for expenditure incurred on the portion used for private or domestic purposes.

You can apply the otherwise deductible rule using the following steps.

Step	Action
1	Disregard any employee contribution and calculate the taxable value of the residual fringe benefit as if there was no employee contribution.
2	Now suppose that the employee had purchased the service or privilege, etc for an amount equal to the amount of the taxable value calculated in step 1. How much of this hypothetical purchase price would have been income tax deductible to the employee?
3	Now look at the actual fringe benefit situation. If the employee made a contribution towards the residual fringe benefit, how much of this contribution is allowable as an income tax deduction to the employee? That is, how much of the employee contribution relates to the business use component of the residual fringe benefit?
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which you may reduce the taxable value of the residual fringe benefit.

Therefore, where the otherwise deductible rule applies, the taxable value of a residual fringe benefit is:

- the amount that would have been the taxable value if no employee contribution had been made, reduced by
- the amount of any actual employee contribution; this result is then further reduced by
- the amount obtained at step 4 of the otherwise deductible rule.

EXAMPLE: contribution set without regard to employee's use of property

An employee is provided with the use of goods (hired by the employer) to the value of $500. The employee contribution of $250 is set without regard to how the employee intends to use the property.

The employee uses the hired property 80% for employment-related (and income tax deductible) purposes and 20% for private purposes.

The taxable value of the residual fringe benefit (without the otherwise deductible rule) is $250 (that is, $500 reduced by the employee contribution of $250).

Apply the otherwise deductible rule as follows.

Step	Action	Result
1	Disregard any employee contribution and calculate the taxable value of the residual fringe benefit as if there was no employee contribution.	$500
2	Now suppose that the employee had hired the goods for an amount equal to the amount of the taxable value calculated in step 1. How much of this hypothetical hiring cost would have been income tax deductible to the employee?	$500 × 80% = $400
3	Now look at the actual fringe benefit situation. If the employee made a contribution towards the residual fringe benefit, how much of this contribution is allowable as an income tax deduction to the employee? That is, how much of the employee contribution relates to the business use component of the residual fringe benefit?	$250 × 80% = $200
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.	$400 – $200 = $200
5	Finally, the taxable value of $250 may be reduced by $200.	$250 – $200 = $50.

EXAMPLE: contribution set with regard to employee's use of property

An employee is provided with the use of goods (hired by the employer) to the value of $500. The employee intends to use the hired property 50% for employment-related (and income tax deductible) purposes and 50% for private purposes.

The employee contribution of $250 is set by the employer after considering how the employee intends to use the goods. (That is, the employer knows that under the otherwise deductible rule there will be no FBT liability on that part of the fringe benefit used to produce income, so the employer calculates an employee contribution sufficient to avoid incurring FBT on that part of the fringe benefit used for a private or domestic purpose.)

At the end of the FBT year the employee finds that the hired property has been used 80% for employment-related (and income tax deductible) purposes and 20% for private purposes.

The taxable value of the residual fringe benefit (without the otherwise deductible rule) is $250 (that is, $500 reduced by the employee contribution of $250).

Apply the otherwise deductible rule as follows.

Step	Action	Result
1	Disregard any employee contribution and calculate the taxable value of the residual fringe benefit as if there was no employee contribution.	$500
2	Now suppose that the employee had hired the property for an amount equal to the amount of the taxable value calculated in step 1. How much of this hypothetical purchase price would have been income tax deductible to the employee?	$500 × 80% = $400
3	Now look at the actual fringe benefit situation. If the employee made a contribution towards the residual fringe benefit, how much of this contribution is allowable as an income tax deduction to the employee? That is, how much of the employee contribution relates to the business use component of the residual fringe benefit? If the employer, in setting the amount of the employee contribution, had not allowed for the intended use of the hired goods, the employee would have paid a contribution of $500 and would have been entitled to a deduction for business use.	$500 × 80% business usage = $400
	However, because the employer calculated the amount of the employee contribution after taking into account the intended business use and the effect of the otherwise deductible rule, the employee's income tax deduction is limited to the amount calculated as follows. The amount that would have been allowed as a deduction to the employee if no allowance had been made for the income-producing purpose for which the hired property was to be used, reduced by the amount of the allowance that was made.	= ($500 × 80%) – ($500 × 50%) = $400 – $250 = $150
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.	$400 – $150 = $250
5	Finally, the taxable value of $250 may be reduced by $250.	$250 – $250 = 0

18.8 SUBSTANTIATION REQUIREMENTS

Where you use the otherwise deductible rule, you must have documentation to substantiate the extent to which the purchase price of the residual benefit would have been 'otherwise deductible' to the employee. You must obtain the documentation from the employee before lodging the relevant FBT return. Where the documentation is a declaration by the employee, it must be in a form approved by the Commissioner.

Travel diary

A 'travel diary' is a diary or similar document that you must obtain from an employee where the residual benefit is provided:

- for travel within Australia for six or more consecutive nights and the travel is not exclusively for performing employment-related duties (the fact that the business travel requires the employee to stay away over a weekend will not, in itself, mean the trip is not undertaken exclusively in the course of their employment), or
- for travel outside Australia for six or more nights.

A travel diary shows where the activity took place, the date and the approximate time when the activity commenced, the duration and the nature of the activity.

The requirement to obtain a travel diary is waived where the employee is performing employment-related duties as a member of an aircrew travelling outside Australia and the residual benefit is for accommodation, or is otherwise incidental to the travel.

Employee declaration

You must obtain an employee declaration except where:

- the residual benefit is used exclusively in the course of performing employment-related duties (for example, protective clothing, tools of trade)
- there is a requirement to keep a travel diary
- the requirement to keep a travel diary is waived because the employee is a member of an international aircrew, or
- the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

The declaration must be in a form approved by the Commissioner. The approved residual benefit declaration is shown here.

Residual benefit declaration

I _____ declare that
(name of employee)

_____
(show nature of benefit eg, car repairs)

was provided to me by or on behalf of my employer during the period from _____ 20_____ to _____ 20_____

and that the benefit was used by me for the following purpose(s)

_____

_____
(Please give sufficient information to demonstrate the extent to which the benefit was used by you for the purpose of earning your assessable income.)

I also declare that, had I purchased the service or privilege, etc for its market value, I would have been entitled to claim an income tax deduction equal to _____ % of the purchase price.

Signature _____

Date _____

The declaration is available on our website in PDF format.

Recurring fringe benefit declaration

The requirement to obtain an employee declaration is waived if the provision of a fringe benefit is covered by a recurring fringe benefit declaration.

A fringe benefit is covered by a recurring fringe benefit declaration if:

- it is provided no later than five years after the day on which the declaration was made
- the deductible proportion of the benefit is not significantly less than the deductible proportion of the benefit for which the declaration was first provided (a difference of more than 10 percentage points is regarded as being significant), and
- it is 'identical' to the fringe benefit for which the declaration was first made.

Benefits are to be treated as being identical if they are the same in all respects except for any differences that:

- are minimal or insignificant
- relate to the value of the benefits, or
- relate to the deductible proportion of the benefits.

A recurring fringe benefit declaration is automatically revoked by a later recurring fringe benefit declaration made for an identical benefit. This means that the earlier declaration applies to the first benefit and to any identical benefits provided before the later declaration was made. The later declaration applies to the benefit for which it was provided and to any identical benefits provided subsequently.

The declaration must be in a form approved by the Commissioner. The employee must give you the declaration before the due date for lodging your FBT return or, if you are not required to lodge a return, by 21 May.

EXAMPLE

An employee lives in a house provided by the employer. The telephone service to the house is in the name of the employer and the employer pays each telephone bill. Use of the telephone is a residual fringe benefit.

The employee gives the employer a recurring fringe benefit declaration which specifies that the deductible proportion of the use of the telephone is 80%. The declaration covers all further use of the telephone over the next five years, providing that the employment-related use of the telephone is not less than 70%. If the employment-related use of the telephone drops to less than 70%, another declaration is required.

The approved recurring residual fringe benefit declaration is shown here.

Recurring residual fringe benefit declaration

I _____ declare that
(name of employee)

_____
(show nature of benefit, eg car repairs)

was provided to me by or on behalf of my employer during the period from _____ 20 _____ to _____ 20_____ and that the benefit was used by me for the following purpose(s)

_____
(Please give sufficient information to demonstrate the extent to which you used the benefit in earning your assessable income.)

I also declare that, had I purchased the service or privilege, etc for its market value, I would have been entitled to claim an income tax deduction equal to _____ % of the purchase price.

I understand that this declaration is to apply to the above stated benefit and to any identical benefit for a period up to five years from the date of this declaration, or until the stated percentage incurred in earning my assessable income decreases by more than 10 percentage points. This declaration will also be revoked if another recurring residual fringe benefit declaration is provided in respect of a subsequent identical benefit.

Signature_____

Date_____

Note:
Identical benefits are the same in all respects except for any differences that are minimal or insignificant, or that relate to the value of the benefits, or to a change in the deductible proportion of 10 percentage points or less.

The declaration is available on our website in PDF format.

18.9 REDUCTION IN TAXABLE VALUE WHERE AN EXPENSE THAT WOULD HAVE BEEN DEDUCTIBLE TO THE EMPLOYEE IS INCURRED IN RELATION TO A CAR

Where you provide a residual benefit in relation to a car owned or leased by the employee, there are special rules for determining how much (if any) of your expenditure would have been 'otherwise deductible' to the employee.

These special rules are actually three different methods of calculating the amount of the expense that hypothetically would have been income tax deductible to the employee (that is, step 2 in the four-step procedure explained in 18.7). The differences arise from the extent to which the car is used for business or employment-related purposes, and/or the type of evidence available to substantiate that use.

The first method is substantiated by means of logbook records and/or odometer records. The second and third methods are substantiated by an employee declaration only.

Chapter 21 contains full details and the appropriate declaration. The employee declaration shown in 18.8 is not suitable for an expense incurred in relation to a car.

18.10 OTHER REDUCTIONS IN TAXABLE VALUE

A number of fringe benefits attract concessional treatment. The concession is a reduction in the taxable value of the fringe benefit that results in a reduced amount of FBT, or even no FBT, being payable.

The following is a list of reductions that may apply to residual fringe benefits. Chapter 19 contains details of the reductions. The relevant reference for each concession is at:

- Remote area residential fuel (19.2)
- Remote area holiday transport (19.2)
- Overseas employment holiday transport (19.3)
- Relocation – temporary accommodation (19.4)
- In-house fringe benefits – tax-free threshold (19.5), and
- Overseas employees – education of children (19.5).

18.11 EXEMPT RESIDUAL BENEFITS

The following is a list of exemptions that may apply to residual fringe benefits. Chapter 20 contains details of the exemptions. The relevant reference for each exemption is at:

- Use of motor vehicles (20.2)
- Use of public transport (20.2)
- Use of recreational or child care facilities that are located on employer's business premises (20.3)
- Use of property that is located on employer's business premises (20.3)
- Living away from home – leasing of household goods (20.4)
- Accommodation where employee lives away from home (20.4)
- 'Fly-in fly-out' transport for oil rig and remote area employees (20.2)
- Priority of access to child care facility (20.3)
- No-private-use declaration (20.3)
- Incidental benefits arising from use of employer's motor vehicle (20.2)
- Employment interviews and selection tests – transport (20.2)
- Relocation – removal and storage of household effects (20.4)
- Relocation – sale or acquisition of dwelling (20.4)
- Relocation – connection or reconnection of certain utilities (20.4)
- Relocation – transport (20.4)
- Parking facilities for motor vehicles (20.2)
- Small business car parking (20.2)
- Newspapers and periodicals (20.8)
- Compensable work-related trauma (including workers' compensation insurance cover) (20.8)
- In-house health care facilities (20.8)
- Travel in a foreign country to obtain medical treatment (20.2)
- Travel for compassionate reasons (20.2)
- Occupational health and migrant language training (20.8)
- Emergency assistance (20.8)
- Minor benefits (20.8)
- Long service awards (20.8)
- Safety awards (20.8)
- Australian Traineeship System (20.8)
- Live-in domestic employees – religious institutions (20.5)
- Live-in help for elderly or disadvantaged persons (20.8)
- Provision of certain work-related items (20.8)
- Taxi travel (20.2), and
- Remote area – certain meals provided to employees in primary production (20.7).

MORE INFORMATION

- Miscellaneous Tax Ruling MT 2024 and addendums MT2024A and MT2024A2– Fringe benefits tax: dual cab vehicles eligibility for exemption where private use is limited to certain work related travel.
- Miscellaneous Tax Ruling MT 2034 and Addendum – Fringe benefits tax: private use of vehicles other than cars.
- Taxation Ruling TR 1999/6 and Addendum – Income tax and fringe benefits tax: flight rewards received under frequent flyer and other similar consumer loyalty programs
- Taxation Determination TD 93/90 – Income tax: does the 'otherwise deductible' rule apply to reduce the taxable value of fringe benefits provided to associates of employees?
- Taxation Determination TD 2004/9 – Fringe benefits tax: what are the rates to be applied on a cents per kilometre basis for calculating the taxable value of a fringe benefit arising from the private use of a motor vehicle other than a car for the fringe benefits tax year commencing on 1 April 2004?
- Taxation Determination TD 2005/9 – Fringe benefits tax: what are the rates to be applied on a cents per kilometre basis for calculating the taxable value of a fringe benefit arising from the private use of a motor vehicle other than a car for the fringe benefits tax year commencing on 1 April 2005?
- Taxation Determination TD 2006/13 – Fringe benefits tax: what are the rates to be applied on a cents per kilometre basis for calculating the taxable value of a fringe benefit arising from the private use of a motor vehicle other than a car for the fringe benefits tax year commencing on 1 April 2006?

19 REDUCTIONS IN TAXABLE VALUE

A number of benefits attract concessional treatment, the concession being a reduction in the taxable value of the fringe benefit. This chapter explains these concessions.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

19.1 WHEN THE VALUE CAN BE REDUCED

A number of fringe benefits attract concessional treatment. The concession is a reduction in the taxable value of the fringe benefit that results in a reduced amount of FBT, or even no FBT, being payable.

The taxable value of a fringe benefit is calculated in accordance with the valuation rules explained in chapters 7 to 18 of this guide. Where the 'otherwise deductible' rule applies, the taxable value is then reduced.

If the fringe benefit is of a type that attracts any of the concessions listed in this chapter, you (the employer) may reduce the taxable value further. In some instances there may be special conditions that must be satisfied before the concession applies, for example, keeping certain records.

Some of the explanations given in this chapter are necessarily brief. For those who wish to consult the relevant section of the *Fringe Benefits Tax Assessment Act 1986*, we have provided a reference to the section of the Act in brackets after the heading.

19.2 REMOTE AREA REDUCTIONS

Residential fuel (section 59)

Residential fuel is any form of fuel (including electricity) used for domestic purposes. If you provide a current employee with residential fuel for use in connection with their usual place of residence, you may reduce the taxable value of the fringe benefit by 50% in the following circumstances:

- the fringe benefit is an expense payment fringe benefit, a property fringe benefit or a residual fringe benefit
- the fringe benefit was not provided to the employee under a non-arm's length arrangement, or an arrangement that was entered into by any of the parties for the purpose, or partial purpose, of enabling you to obtain the residential fuel concession, and
- the employee is also:
  - the recipient of a remote area housing benefit that is an exempt benefit as described in 10.8
  - under an obligation to repay the whole or a part of a remote area housing loan connected with the dwelling and you provide a form of remote area housing assistance referred to below, or
  - incurring remote area housing rent in connection with a unit of accommodation and you provide a form of remote area housing assistance referred to below.

> Free water provided to an employee under a residential tenancy agreement is part of the remote area housing benefit as described in 10.8 and is not considered residential fuel.

Remote area housing assistance (section 60)

What is housing assistance?

Where you subsidise certain costs your employees may incur in acquiring accommodation in remote areas, you may be eligible for a housing assistance concession. You may qualify for a 50% reduction of the taxable value of the benefit arising from the housing assistance if you satisfy certain conditions.

For the purposes of the concessions, **housing assistance** is:

- the payment or reimbursement of rent (expense payment benefit)
- the payment or reimbursement of the interest accrued on a housing loan (expense payment fringe benefit)
- the payment or reimbursement of the cost of acquiring land, or house and land (expense payment fringe benefit)
- the making of a housing loan (loan fringe benefit)
- the provision of land, or house and land (property fringe benefit), and
- the payment an employee receives related to them being granted a repurchase option on the house, or to the repurchase of their house (property fringe benefit).

How to qualify for the concessions

To qualify for the FBT concessions, you must meet the following common conditions.

Remote area

The concessions apply only to accommodation located in areas that meet the requirements outlined below.

It is located in a remote area if it is not in or near an urban centre. This means the accommodation must be located at least 40 kilometres from a town with a census population between 14,000 to less than 130,000, or at least 100 kilometres from a town with a census population of 130,000 or more (population figures based on the 1981 Census).

If the accommodation is in Zone A or B (for income tax purposes), it must be located at least 40 kilometres from a town with a census population between 28,000 to less than 130,000, or at least 100 kilometres from a town with a census population of 130,000 or more.

No application of extended remote area test for certain employers

The extension of the remote area test for hospitals, charities, public ambulance services and the police force that applies to the remote area housing exemption does not apply to remote area housing assistance concessions.

Current employee

The employee (not an associate or third party) receiving the remote area housing assistance must be a current employee of your business in the FBT year in which you provide the benefit, and their usual place of employment must be in a remote area.

Customary

At the time the employee's expenditure was incurred it was customary for employers in the industry in which the employee was employed to provide housing assistance for their employees.

A benefit will be accepted as being customary in the industry where it is normal or common for employees of that class or job description in that industry to be provided with the same or similar benefits. It is not necessary that all or even the majority of employees in the industry receive the benefit. Where it is unique, rare or unusual within an industry to provide the benefit, it would not be accepted as being customary.

Necessary

It was necessary because, at the time the employee's expenditure was incurred, it was customary for employers in the industry in which the employee was employed to provide housing assistance for their employees.

It is necessary for you to provide accommodation to employees because:

- the nature of your business is such that employees are likely to move frequently from one residential location to another
- there is not sufficient suitable residential accommodation otherwise available in the area in which the employee is employed, or
- it is customary in your industry to provide free or subsidised housing to employees.

Usual place of residence

The accommodation must be the employee's usual place of residence. The following factors may be considered when deciding where an employee's usual place of residence is:

- an employee's usual place of residence is normally found near to their fixed or permanent employment base
- the terms of the employee's employment contract or award may indicate whether their move to a new place of residence is merely temporary or of a more lasting nature, and
- the longer the employee is required to work at a place, the more indicative it is that the move is not temporary in nature.

A dwelling

All of the concessions other than the remote area housing rent must be in respect of a dwelling. A dwelling is (a unit of) accommodation constituted by, or contained in, a building, being a unit that consists in whole or in substantial part of residential accommodation. Examples of dwellings are houses and apartments. A caravan is not considered a dwelling.

Arm's length arrangement

The fringe benefit was not provided to the employee under:

- a non-arm's length arrangement, or
- an arrangement that was entered into by any of the parties for the purpose, or partial purpose, of enabling you to obtain the remote area housing concession.

Remote area holiday transport – not subject to ceiling (section 61)

Under an award or industry custom, an employee working in a remote area may be reimbursed for the costs of travelling from, or may be provided with transport from, the remote area for the purpose of having a holiday, and similarly, back to the remote area after the holiday. The employee may also be entitled to be provided with accommodation and/or meals in connection with the transport from and to the remote area. A remote area is defined in 10.8.

You may reduce the taxable value of the fringe benefits arising from the transport, accommodation and meals by 50% if:

- the employee travels from the **work locality** to the town where they lived before being engaged to work at that locality, or
- the employee travels to the capital city of the state or territory in which the **workplace** is located (for this purpose, Perth and Adelaide are treated as if they were the capital cities of Christmas Island and the Northern Territory, respectively).

The following requirements must also be satisfied:

- the holiday is of three working days or more, and
- where the benefit is an expense payment fringe benefit, you are provided with proof of the expenditure (that is, originals or copies of receipts and/or invoices, or a declaration in the approved format shown below).

The reduction in taxable value extends also to holiday transport, accommodation and food benefits given to the employee's family, whether accompanied by the employee or not. If a child or the spouse of the employee does not live at the employee's work locality, the concession will also apply if the holiday travel by the spouse or child is for the purpose of meeting the employee.

If the benefit is a reimbursement for car expenses calculated on a cents per kilometre basis, the reduction in taxable value is limited. The maximum reduction is 50% of the amount that would be paid if the reimbursement were to be calculated at a certain rate per kilometre. That rate per kilometre is the applicable rate for claiming income tax deductions on a cents per kilometre basis (see *TaxPack* for the rates). In addition, a rate of 0.63 cents per kilometre is permitted where more than one family member travels in the car.

The reduction of taxable value does not apply to a reimbursement of car expenses calculated on a cents per kilometre basis unless you obtain from the employee a declaration in a form approved by the Commissioner. The approved remote area holiday transport declaration is shown following.

Remote area holiday transport declaration

Section A

I _____
(name of employee)

declare that, for the purposes of having a holiday of not less than three days, _____
(state who travelled, eg self, self and family, etc)

travelled on _____ 20_____ by _____
(state mode of transport eg. car, plane)

from _____ to _____
(place of departure) *(destination)*

I also declare that:

- expenses of $_____ were incurred by me on transport,
(amount in figures)
- accommodation and meals in undertaking that holiday travel, and
- I returned to my work location on _____ 20_____
(delete if the travel was not undertaken by self)

(If some or all of the transport expenses reimbursed by the employer were car expenses and the reimbursement was calculated on a cents per kilometre basis, please also complete section B below.)

Section B

I declare that the travel was undertaken in my car (or a car leased by me) and that:

- the car is _____
(state make and model of car and whether rotary engine or not)
- with an engine capacity (in cubic centimetres) of _____
- the total number of kilometres travelled in the car between the places of departure and destination (including the return journey) was _____
- the number of family members (apart from myself) travelling in the car was _____ , and
- the amount of the cents per kilometre car expenses reimbursed included in the total expenses declared above is $_____ .
(amount in figures)

Signature _____

Date _____

The remote area holiday transport declaration is also available on our website in PDF format.

Remote area holiday transport – subject to ceiling (section 60A)

Where a particular fringe benefit satisfies all but one of the requirements necessary to gain the concession described under **Remote area holiday transport – not subject to ceiling (section 61)**, a reduction in taxable value may nonetheless be available. If the only requirement not satisfied is that of the locality of the place to which the employee travels from the remote area, and from which the employee travels to return to the remote area, you may reduce the taxable value of the fringe benefit by 50% of the taxable value, or 50% of the 'benchmark travel amount' (whichever is less).

The benchmark travel amount is the usual cost of return travel between the work locality and capital city of the state in which the workplace is located. This is normally the return economy air fare plus any incidental costs you would ordinarily meet under relevant industrial arrangements. The benchmark travel amount is worked out at the beginning of the employee's holiday.

For remote areas in the Northern Territory and for Christmas Island, the reduction in taxable value is limited to 50% of the usual cost of travel to Adelaide and Perth, respectively.

Remote area home ownership schemes (sections 65CA to 65CC)

Broadly, this concession permits the amortisation of fringe benefits provided in connection with remote area home ownership schemes. The period of amortisation is generally five to seven years.

The benefits may consist of:

- a discount on the purchase of a home or of land on which to build a home
- a reimbursement of the cost of buying land and/or building a home, or
- an option fee entitling you to first choice in repurchasing the home.

There must be a restriction on the employee's freedom to sell the house during the amortisation period.

The remote area home ownership scheme must be genuine rather than merely a contrived attempt to take advantage of this concession.

If you repurchase the home during the amortisation period, the unamortised balance is brought to account in your FBT return for that year.

Where an employee is forced by a contractual buy-back arrangement to suffer a loss in selling the home back to you, you may deduct 50% of that loss from your aggregate taxable values in that FBT year. (The rationale for this reduction is that any fringe benefit given to the employee to facilitate the original purchase of the house is being offset by the loss on its resale to you.)

19.3 TRANSPORT REDUCTIONS

Overseas employment holiday transport (section 61A)

Fringe benefits arising from holiday travel provided in accordance with an award or industry custom to employees posted overseas receive concessional treatment. The travel must be in connection with leave of more than three days. The concession is a reduction in the taxable value of the fringe benefits. The reduction in taxable value may vary in amount, depending on whether the travel is to the employee's home country or to some other destination.

Benefits eligible for the reduction are those that arise from providing transport and, where appropriate, meals and accommodation in connection with that transport. The concession applies to both Australian employees posted overseas and overseas residents posted to Australia.

Where the travel is not to the home country, the concession is limited to 50% of what is called the 'benchmark travel amount'. The benchmark travel amount is normally the cost of a return economy air fare, determined at the commencement of the employee's holiday.

Where the travel is to the home country, the 50% discount applies to the actual cost of travel, even if the cost exceeds the benchmark travel amount. For example, this would occur when an employee travels to their home country on a first-class flight.

If an employee is provided with more than one overseas holiday trip during an FBT year, the concession is determined by calculating the 50% discount for each trip and using the highest discount as the concession for that year.

These concessions also apply where holiday travel benefits are given to the employee's family, whether or not they live with the employee at the overseas post.

If the holiday travel benefit is in the form of a reimbursement of the employee's expenses, you must obtain documentary evidence of the expenses by the time you are required to lodge your FBT return. If, however, the benefit is a reimbursement of car expenses on a cents per kilometre basis, you must obtain a signed declaration from the employee that sets out the make, model and engine capacity of the car, the number of kilometres it travelled on the holiday, and the number of persons who travelled in the car.

Employment interviews and selection tests – transport by employee's car (section 61E)

You may reduce the taxable value of an expense payment fringe benefit where an employee:

- travels in their own car solely for the purpose of attending an interview or selection test connected with an application for a new job or for promotion, or transfer in employment, and
- is reimbursed on a cents per kilometre basis for the car expenses incurred.

However, the reduction is limited to the amount you would have reimbursed based on the applicable rate if income tax deductions were claimed on a cents per kilometre basis for that amount of travel.

The reduction in taxable value is conditional upon you obtaining a signed declaration in a form approved by the Commissioner of Taxation. The approved declaration is shown below.

Employment interview or selection test declaration – transport in employee's car

I _____ declare that on _____ 20____
(date)

I travelled in my car for the purpose of attending an employment interview/employment selection test (delete whichever is not applicable)

from _____ to _____ .
(state place of departure) *(state destination)*

The car is _____
(state make and model of the car and whether rotary engine or not)

with an engine capacity (in cubic centimetres) of _____.

The total number of kilometres travelled in the car on the journey (including any return trip) was _____.

Signature _____

Date _____

This declaration is also available on our website in PDF format.

Occupational health and migrant language training – transport by employee's car (section 61F)

Where you reimburse an employee on a cents per kilometre basis for car expenses incurred in attending a work-related medical examination or screening, preventative health care, counselling session or migrant language training (see 20.8), the reduction is limited to the amount you would have reimbursed based on the applicable rate if income tax deductions were claimed on a cents per kilometre basis for that amount of travel.

You may reduce the taxable value of the expense payment fringe benefit where an employee:

- travels in their own car for the purpose of attending a work-related medical examination, screening, preventative health care or counselling session, or for migrant language training, and
- is reimbursed on a cents per kilometre basis for the car expenses incurred.

However, the reduction is limited to the amount you would have reimbursed based on the applicable rate if income tax deductions were claimed on a cents per kilometre basis for that amount of travel.

The reduction of taxable value is conditional upon you obtaining a signed declaration in a form approved by the Commissioner of Taxation. The approved declaration is shown below.

Declaration of car travel to work-related medical examination, medical screening, preventative health care, counselling or migrant language training

I _____ declare that on _____ 20____
(date)

_____
(state who travelled, eg self, self and a family member)

travelled in my car to attend:

- work-related medical examination
- work-related medical screening
- work-related preventative health care
- work-related counselling
- migrant language training.

(delete those that do not apply)

The travel was from _____ to _____
(state place of departure) *(state place of destination)*

The car is _____
(state make and model of the car and whether rotary engine or not)

with an engine capacity (in cubic centimetres) of _____.

The total number of kilometres travelled in the car on the journey (including any return trip) was _____.

Signature _____

Date _____

The declaration is also available on our website in PDF format.

19.4 RELOCATION REDUCTIONS

Relocation – where transport by employee's car (section 61B)

If you reimburse an employee on a cents per kilometre basis for using their own car as relocation transport, you may reduce the taxable value of the expense payment fringe benefit. However, the reduction is limited to the amount you would have reimbursed based on the applicable rate if income tax deductions were claimed on a cents per kilometre basis for that amount of travel.

The reduction in taxable value is conditional upon you obtaining a signed declaration in a form approved by the Commissioner. The approved declaration is shown below. The declaration is also available on our website in PDF format.

For this purpose, relocation transport is transport that enables an employee to relocate to a new residence in circumstances where they are required to live away from home in order to perform employment-related duties, or are similarly required to relocate their usual place of residence.

The reduction also applies where the employee is returning to their usual place of residence after working at another location.

Relocation transport declaration

I _____ declare that,

for the purposes of relocating my place of residence,

_____
(state who travelled, eg self, self and a family member)

travelled in my car from _____
(state place of departure)

to _____ on _____ 20_____
(destination)

The car is _____
(state make and model of car and whether rotary engine or not)

with an engine capacity (in cubic centimetres) of _____.

The total number of kilometres travelled in the car between the places of departure and destination was _____

and the number of family members (apart from myself) travelling in the car was _____.

Signature _____

Date _____

Relocation – temporary accommodation (section 61C)

This concession reduces the taxable value of fringe benefits that arise from providing temporary accommodation (including costs of hiring household goods) to an employee. The temporary accommodation must be required solely because the employee is required to change their usual place of residence in order to perform the duties of employment or in order to commence employment.

The fringe benefits eligible for this reduction are:

- an expense payment, housing or residual benefit that relates to a lease or licence for the temporary accommodation of the employee, and
- an expense payment or a residual benefit that relates to a lease or licence for household goods for use in temporary accommodation of the employee.

The benefit must be provided under an arm's length arrangement.

Temporary accommodation at former location

This concession applies to temporary accommodation at the employee's former location only if the temporary accommodation is necessary because the former home is unavailable or unsuitable for occupancy as a result of furniture removal or other factors relating to the relocation. In this case, the concession applies to the temporary accommodation for a maximum 21 days, ending on the day the employee starts work at the new location.

Temporary accommodation at new location

Where the temporary accommodation is at the new locality, the employee must begin to make sustained and reasonable efforts to buy or lease suitable long-term accommodation as soon as reasonably practicable after starting work at the new locality.

In order for the concession to apply, the employee **must** either:

- begin to occupy a long-term unit of accommodation within four months of starting at the new location, or
- where the employee has not started to live in a long-term unit of accommodation within four months, give a declaration to the employer relating to their efforts to find suitable long term accommodation by the due date of the lodgement of the FBT return. The declaration must be in a form approved by the Commissioner and the approved declaration is shown on the next page.

Employee has started to occupy a unit of accommodation within four months

Where the employee has commenced to occupy a long-term unit of accommodation within four months, the concession is limited to a period that begins seven days before the day the employee starts work at the new location and ends on the day the employee could reasonably be expected to occupy the unit of accommodation after it had been purchased or leased.

Employee has *not* started to occupy a unit of accommodation within four months

If the employee has not started to occupy a unit of accommodation within four months, the concession is limited to a period that begins seven days before the day the employee started work at the new location and ends on the **earlier** of:

- the day the employee could reasonably be expected to occupy the unit of accommodation after it has been purchased or leased, or
- six months after the day the employee started work at the new location, or
- 12 months after the day the employee started work at the new location.

The 12-month period will apply where:

- the employee owned an interest in a unit of accommodation which was their former usual place of residence
- within six months after the relocation day a contract for the sale of their former usual place of residence has been entered into, and
- during that period, the employee has attempted to purchase a unit of accommodation at the new location.

Otherwise the six-month period will apply.

However, if the employee enters into a contract to purchase or lease long-term accommodation before the six or 12-month time period finishes, the concession ends on the day the employee could reasonably be expected to occupy that unit of accommodation.

In all of the above circumstances, the employee is required to give the employer a declaration. The declaration must be in a form approved by the Commissioner and the approved declaration is shown on the next page.

> ❗ The concession will end before the specified time frame has elapsed if the employee ceases to make reasonable and sustained efforts to buy or lease suitable long term accommodation.

Temporary accommodation relating to relocation declaration

Sections A and D of the form must be completed plus either of sections B and C

Section A

I _____ declare that for the purpose of commencing employment with
(name)

_____ at _____
(name of employer) *(locality/address of employer)*

I commenced sustained efforts to acquire a long term place of residence on _____ 20_____ and
(date search-period commenced)

> Complete either section B or section C, whichever is applicable, where a period in excess of four months has elapsed since the search commenced.

Section B

If the employee did not have a proprietary interest in their former residence:

(Where the unit of accommodation is occupied on a date subsequent to completion of the initial four-month search period but prior to six months after commencement of the initial search period)

I entered into a contract to permanently occupy a unit of accommodation on _____ 20_____
(date)

and commenced occupation (on a date subsequent to the completion of the initial four-month search period but prior to six months after the commencement of the initial search period) of the unit of accommodation on _____ 20_____, **or**
(date)

(Where the employee is unable to locate a suitable permanent unit of accommodation after six months from the commencement of the initial search period)

As at _____ 20____ despite sustained efforts, I have been unable to locate a suitable permanent unit of accommodation, **or**
(date six months from the commencement of the initial search period)

Section C

If the employee held a proprietary interest in their former residence:

I entered into a contract to sell my former residence on _____ 20_____ and
(date within six months of the commencement of the initial search period)

Either (indicate whichever is appropriate):

☐ commenced occupation of a unit of accommodation on _____ 20_____ which I intend to occupy as my new long-term residence, **or**
(date)

☐ despite sustained efforts, I have been unable to locate suitable long-term accommodation within a period of 12 months from when my initial search commenced.

Section D

Temporary accommodation at _____
(address)

was required for the period _____ 20_____ to _____ 20_____ solely because I was required to change
(date) *(date)*

my usual place of residence in order to perform the duties of my employment.

Signed _____ Date _____

> The declaration is also available on our website in PDF format.

Relocation – meals (section 61D)

Where you provide meals to an employee (or family member) while they are staying in a hotel, motel, hostel or guesthouse, and that accommodation qualifies for the concession explained under **Relocation – temporary accommodation (section 61C)**, the taxable value of the meals is reduced to a maximum of $2 per meal (or $1 if the family member is under 12).

Living away from home – food provided (section 63)

Rather than paying a cash living away from home allowance while an employee is required to live away from their usual home, you may reimburse the employee's food costs (giving rise to an expense payment fringe benefit), or provide food to the employee (giving rise to a property fringe benefit).

You may reduce the taxable value of the expense payment fringe benefit or property fringe benefit to the equivalent of $42 a week for each adult and $21 a week for each child. (An adult is a person who had attained the age of 12 years before the beginning of the FBT year.) You apply this particular reduction to the taxable value before applying the employee contribution.

To apply this reduction, you must obtain from the employee a declaration setting out their usual place of residence and actual place of residence during the period of the allowance. The declaration must be in the form approved by the Commissioner and the approved declaration is shown below.

(Declarations are not required from employees employed under 'fly-in fly-out' arrangements or on offshore oil rigs.)

> The declaration is also available on our website in PDF format.

19.5 OTHER REDUCTIONS

Personal services entities (section 61G)

The taxable value of a fringe benefit can be reduced by the same amount as is made non-deductible to the provider by virtue of the personal services income provisions under the *Income Tax Assessment Act 1997* (ITAA 1997).

Sections 85-15, 85-20 and 85-60 of the ITAA 1997 limit the extent to which a person can deduct payments to associates that relate to personal services income.

In-house fringe benefits – tax-free threshold (section 62)

If you provide one or more in-house fringe benefits to an employee during the FBT year, you may reduce the aggregate of the taxable values of the in-house fringe benefits by $500.

Broadly, in-house fringe benefits are benefits that are identical or similar to the benefits you provide to customers in the ordinary course of business.

This concession applies only to:

- in-house expense payment fringe benefits
- in-house property fringe benefits
- in-house residual fringe benefits, and
- airline transport fringe benefits.

You do not need to keep specific records of in-house benefits provided to individual employees if you do not expect the value of the benefits provided in the year to exceed the $500 limit.

Living away from home declaration

I _____ declare that
(employee name)

during the period _____ 20_____ to _____ 20_____ I was required to live away from my usual place of residence in order to perform the duties of my employment and that during that period my usual place of residence was

_____
(state place where you usually live)

and the nature of that residence was _____; and, during the period the place at which I actually resided was _____

_____
(state all addresses at which you resided while away from home in the period stated above)

Signature _____

Date _____

If a particular fringe benefit is eligible for both this concession and another concession outlined in this chapter, you reduce the taxable value first by the other concession, and then by this concession.

> The Government has announced that from 1 April 2007, the in-house fringe benefits tax-free threshold will increase from $500 to $1,000.

Entertainment expense payments (section 63A)

A reduction in the taxable value of an expense payment fringe benefit is available where the expense payment fringe benefit arises from expenditure an employee incurs in entertaining people other than the employee or associates (for example, expenditure incurred by the employee on entertaining your clients).

You may reduce the taxable value of the expense payment fringe benefit by the percentage of the expenditure incurred in entertaining the other people.

The taxable value may not be reduced under this concession if the otherwise deductible rule applies.

Overseas employees – education of children (section 65A)

A reduction is available for:

- any car or expense payment fringe benefit provided in respect of the full-time education costs of an employee's child, or
- any property or residual fringe benefit provided solely for the purposes of the child's full-time education.

The reduction is available where:

- any part of the full-time education is undertaken by the child when the employee is posted overseas, and
- the benefits are provided in accordance with an award or industry custom.

The concession applies to both Australian employees posted overseas and overseas residents posted to Australia. The employee's child does not have to accompany the employee overseas in order for you to be entitled to this concession.

The full-time education can be provided to a child at a school, college or university, or by a tutor. Where the child receives their education at a school, college or university, the employee must be posted overseas for 28 days or more.

Education costs you bear for children of employees who are posted overseas will be reduced proportionately in accordance with the extent that the benefit relates to the period of the employee's service overseas. If the overseas service commences or ceases during a school term, and the child receives their education at a school, college or university, the education costs relating to the whole term will be subject to the reduction.

Where the child receives their education by a tutor, the reduction applies to the education costs relating to the period from the day the posting started to the day the posting ended.

For the purposes of this concession, a child is an employee's child who is less than 25 years of age at the time the benefit is provided.

If you reimburse the education expenses incurred by the employee, you must obtain documentary evidence of the expenses before you lodge your FBT return (21 May).

20 EXEMPT BENEFITS

This chapter details those benefits that are exempt from fringe benefits tax.

20.1 WHAT IS AN EXEMPT BENEFIT?

A number of benefits are exempt from FBT. Although these are popularly called 'exempt fringe benefits', they are referred to in the FBT legislation as **exempt benefits**. In fact, by definition an exempt benefit cannot be a fringe benefit.

Exempt benefits are not only exempt from FBT, they are also (with one exception) exempt from income tax in the hands of the employee to whom you (the employer) provide them (see **Car expenses – expense payments (section 22)** for details of the exception).

Some of the explanations given in this chapter are necessarily brief. For those who wish to consult the relevant section of the *Fringe Benefits Tax Assessment Act 1986*, a reference to the section is provided in brackets after the heading.

20.2 TRANSPORT EXEMPTIONS

Cars (section 8)

There are circumstances in which private use of a car may be exempt from FBT.

An employee's private use of a taxi, or of a panel van, utility or other commercial vehicle (that is, one not designed principally to carry passengers), is exempt *if* their private use of such a vehicle is limited to:

- travel between home and work
- travel that is incidental to travel in the course of performing employment-related duties, and
- non-work-related use that is minor, infrequent and irregular (for example, occasional use of the vehicle to remove domestic rubbish).

EXAMPLE: Exempt use

An electrical company employee takes the company van (carrying capacity of less than one tonne) home each night as there is no security at the company premises. The only non-work-related use during the FBT year was a trip to pick up some furniture and take it to the employee's home. This use of the van would be exempt from FBT.

If the use of the vehicle exceeds the limits set out above, it is a car fringe benefit. All the private use of the vehicle, including the travel between home and work, is taken into account in determining the business percentage under the operating cost method. If no logbook records are maintained, the statutory formula method must be used to value the car fringe benefit.

Where the vehicle is not a car as defined in 7.1, a residual benefit will arise (see 18.6).

EXAMPLE: Non-exempt use

A council employee takes a utility (carrying capacity of less than one tonne) home each night and on the weekends. Although the utility is clearly marked as a council vehicle, the employee uses it for shopping and other private purposes during the week and often for country trips on the weekends.

This use of the utility would not be exempt from FBT and would be treated as a car fringe benefit. Assuming there are no logbook records, the taxable value of the utility would be calculated using the statutory formula method.

Dual cab vehicles

Dual cab vehicles are variants of conventional goods vehicles with additional seating positions behind the driver and front passenger seats. They share a common chassis, to which the single or dual passenger cab and alternative tray sections may be fitted.

Dual cabs qualify for the work-related use exemption only if:

- they are designed to carry a load of one tonne or more, or more than eight passengers, or
- while having a designed load capacity of less than one tonne, they are not designed for the principal purpose of carrying passengers.

A dual cab that has a designed load-carrying capacity of less than one tonne may qualify for the work-related use exemption only if the vehicle is not designed for the principal purpose of carrying passengers. To determine whether the majority of the designed load capacity is attributable to passenger-carrying

capacity, multiply the designed seating capacity (including the driver's) by 68kg, which is the figure used for applying the Australian Design Rules. If the total passenger weight so determined exceeds the remaining 'load' capacity, the vehicle is treated as being designed for the principal purpose of carrying passengers and is thus ineligible for the work-related use exemption.

EXAMPLE

A dual cab vehicle with a gross vehicle weight of 1,950kg, a basic kerb weight of 1,400kg, and a designed seating capacity of five would be considered a vehicle designed principally for carrying passengers. This is because the majority of the total load capacity (340kg (5 × 68kg) of a total of 550kg) would be absorbed by its designed passenger-carrying capacity.

Unregistered vehicles

If a car is unregistered for the full FBT year and used principally for business purposes, any private use is exempt from FBT. A car that may be lawfully driven on a public road is regarded as being registered.

There is an explanation of the types of motor vehicles that are cars in 7.1.

Personal services entities (subsection 8(4))

A car benefit is an exempt benefit in relation to an FBT year if the person providing the benefit cannot deduct an amount under the *Income Tax Assessment Act 1997* (ITAA 1997) for providing the benefit because of section 86-60 of that Act.

Section 86-60 of the ITAA 1997 limits the extent to which a personal services entity can deduct car expenses. Deductions are not allowed for more than one car for private use.

The use of these cars is an exempt benefit because the entity is not entitled to claim an income tax deduction for these cars.

Car expenses – expense payments (section 22)

With some exceptions, where you reimburse the operating expenses of an employee's own car according to the distance travelled in the car (for example, where expenses are reimbursed on the basis of an agreed number of cents per kilometre travelled), an exempt benefit arises.

These exempt benefits are a unique category of exempt benefits. They are the only exempt benefits that constitute assessable income in the hands of the employee. All other exempt benefits are both exempt from income tax in the hands of the employee to whom they are provided, and exempt from FBT.

Where the benefits are not exempt, some valuation concessions are available (see chapter 19).

The exemption is not available where the reimbursement of the car expenses relates to any of the following circumstances:

- holiday transport from a remote area
- overseas employment holiday transport
- relocation transport
- transport to an employment interview or selection test
- transport to a work-related medical examination, work-related medical screening, work-related preventative health care, work-related counselling or migrant language training, or
- transport was provided after the employee had ceased to perform the duties of that employment.

Public transport – residual benefits (subsections 47(1), 47(1A))

Where you operate a business of providing transport to the public, providing free or discounted travel (other than in an aircraft) to employees of that business for travelling to and from work is an exempt benefit. Free or discounted travel on a scheduled metropolitan service you operate is similarly exempt.

Where the benefit is provided by an associate company, it is also exempt if both you and the associate carry on a public transport business.

Providing travel on public transport to a police officer for travelling between the officer's place of residence and their primary place of employment is also an exempt benefit.

Motor vehicles – residual benefits (subsections 47(6), 47(6A))

Where you provide an employee with use of a motor vehicle that is not a car, such use is an exempt benefit if any private use is restricted to the following circumstances:

- travel to and from work
- use that is incidental to travel in the course of performing employment-related duties, and
- non work-related use that is minor, infrequent and irregular (for example, occasional use of the vehicle to remove domestic rubbish).

The types of motor vehicles that are cars are explained in 7.1.

If use of the vehicle exceeds the limits set out above, a residual benefit will arise and the taxable value can be worked out using either the cents per kilometre or operating cost method (see 18.6).

All the private use of the vehicle, including travel between home and work, is taken into account in determining the business percentage under the operating cost method.

Where the motor vehicle is used wholly or principally in connection with your business operations and is at all times unregistered, any private use by the employee is also an exempt benefit. A motor vehicle that may be lawfully driven on a public road is regarded as being registered.

'Fly-in fly-out' arrangements – residual benefits (subsection 47(7))

Transport you provide to employees who work in remote areas or on oil rigs or other installations at sea may be an exempt benefit.

This arrangement, commonly known as 'fly-in fly-out' transport, is exempt where:

- employees are provided with accommodation at or near the worksite on working days
- the transport is provided to enable the employees to return to their usual place of residence on days off, and
- it would be unreasonable to expect the employees to travel to and from work on a daily basis.

Operating costs of motor vehicle (section 53)

Where the use of a motor vehicle gives rise to a fringe benefit, the benefits associated with the costs of operating the vehicle are exempt benefits. There is no additional FBT liability for operating expenses you provide, such as for registration, insurance, repairs and fuel. This is because the valuation rules for use of the motor vehicle also take into account the operating costs of the vehicle.

Employment interviews and selection tests (section 58A)

A benefit that meets the costs of travelling to an interview or selection test, in connection with an application for employment with a new employer or a promotion or transfer with an existing employer, is an exempt benefit.

Where the benefit is of a type that would be an expense payment fringe benefit but for the exemption, you must obtain documentary evidence of the employee's expenditure.

If the applicant or current employee uses their own vehicle and is reimbursed on a cents per kilometre basis for the distance travelled, the benefit is not exempt. However, a reduction in the taxable value may be available (see 19.3).

Motor vehicle parking (section 58G)

The following car parking benefits are exempt from FBT:

- residual benefits
- certain expense payment benefits
- parking for the disabled, and
- benefits provided by certain employers.

Residual benefits

Employer-provided parking that is not a car parking fringe benefit is a residual benefit that is exempt from FBT.

Expense payment benefits

Where you pay or reimburse a car parking expense incurred by an employee, it is exempt from FBT if the expense is not a car parking expense payment fringe benefit as described in 16.8.

Parking for the disabled (regulation 13A)

Car parking provided for a car used by a disabled employee who is legally entitled to use a disabled person's parking space and has a valid disabled person's car parking permit displayed on the car is exempt from FBT.

Exempt employers

You are exempt from FBT in relation to car parking fringe benefits and car parking expense payment fringe benefits if you are one of the following employers:

- a scientific institution (other than an institution run for the purposes of profit or gain to its shareholders or members)
- a religious institution
- a charitable institution
- a public educational institution, or
- a government body where the employee is exclusively employed in, or in connection with, a public educational institution.

Small business car parking (section 58GA)

If you are a small business employer, car parking benefits you provide are exempt if the following conditions are satisfied:

- the parking is not provided in a commercial car park
- you are not a government body, a listed public company, or a subsidiary of a listed public company, and
- your total income for the last income year before the relevant FBT year was less than $10 million. For this purpose, your income includes ordinary income and statutory income as defined in the *Income Tax Assessment Act 1997*, that is, total gross income before any deductions.

Travel to obtain medical treatment (section 58L)

Benefits that meet the costs of travel from a workplace located in a foreign country in order to obtain medical treatment are exempt benefits.

The exemption applies where the travel is undertaken solely because the employee (or a family member living with the employee) requires medical treatment. It also applies to travel of a person who is needed to accompany the patient as an escort for medical reasons, or who accompanies a patient who is under 18, or who, as a family member, visits or accompanies the patient.

A condition of exemption is that the place of treatment is the place nearest the work locality where suitable medical treatment could be provided, or the place where suitable treatment could be obtained at least cost.

Accommodation and meals are also exempt if provided en route or during any period in which the person travelling must stay at the place of treatment for reasons related to the medical treatment. However, hospital accommodation and meals provided to the patient are not exempt.

Travel for compassionate reasons (section 58LA)

Certain benefits you provide in connection with compassionate travel are exempt benefits.

Compassionate travel is restricted to:

- travel by an employee for the sole purpose of visiting a close relative who is seriously ill
- travel by an employee for the sole purpose of attending the funeral of a close relative
- travel by a close relative of an employee for the sole purpose of visiting the employee, if the employee is seriously ill
- travel by a close relative of an employee for the sole purpose of attending the funeral of the employee
- travel by a close relative of an employee for the sole purpose of visiting a seriously ill close relative of the employee (the traveller must ordinarily reside with the employee), or
- travel by a close relative of an employee for the sole purpose of attending the funeral of a close relative of the employee (the traveller must ordinarily reside with the employee).

For the purpose of this exemption, a close relative of an employee means a spouse, a child or a parent of the employee, or a parent of the employee's spouse.

One of the following conditions must be satisfied when the compassionate travel starts:

- the employee is travelling in the course of performing employment-related duties
- the employee is living away from home while performing employment-related duties, or
- the employee's usual place of residence is in a remote area (see 10.8).

The exemption applies to benefits that would be fringe benefits of the following types, if it were not for the exemption:

- a car fringe benefit where the car is the means of the compassionate travel
- an expense payment fringe benefit where the expenditure is for transport, meals or accommodation for the person travelling (you must obtain documentary evidence of the expenditure)
- a property fringe benefit consisting of meals for the person travelling, or
- a residual fringe benefit consisting of transport or accommodation for the person travelling.

Taxi travel (section 58Z)

Any benefit arising from taxi travel by an employee is an exempt benefit if the travel is a single trip beginning or ending at the employee's place of work.

Any benefit arising from taxi travel by an employee is also an exempt benefit if the travel:

- is as a result of sickness of, or injury to, the employee, and
- is the whole or a part of the journey directly between any of the following:
  - the employee's place of work
  - the employee's place of residence, or
  - any other place that it is necessary, or appropriate, for the employee to go as a result of the sickness or injury.

20.3 RESIDUAL EXEMPTIONS

Recreational facilities, child care facilities – residual benefits (subsection 47(2))

Recreational or child minding facilities are exempt benefits if the facilities are provided on your business premises for the benefit of employees. Where such facilities are provided on business premises of a related company in a wholly owned company group, they are similarly exempt.

Use of property – residual benefits (subsections 47(3), 47(4), 47(4A))

Where plant or equipment located on your business premises is used wholly or principally in connection with the operation of that business, any private use of that plant by an employee on those premises is an exempt benefit (for example, private telephone calls). This exemption applies regardless of whether the plant or equipment is used on a working or a non-working day.

The limited use of equipment off your business premises qualifies for exemption provided the equipment is ordinarily located on those premises or at your worksite for use in connection with business operations. This exemption would extend, for example, to business equipment that an employee borrows to use overnight or at weekends. A power tool or personal computer taken home in these circumstances would give rise to an exempt benefit. The exemption does not, however, extend to use of one of your motor vehicles.

The use by employees of amenities such as tea making or coffee making facilities located on the business premises is also exempt from FBT.

Child care facility, priority of access – residual benefits (subsection 47(8))

Payments you make to obtain priority access to certain child care facilities for children of employees may be exempt benefits.

The payments must be made under a program administered by the relevant government department to a child care service that is one of the following:

- an eligible child care centre for the purposes of any provision of the *Child Care Act 1972*
- family day care
- care outside school hours, or
- care in school vacations.

Residual benefits – no-private-use declaration (section 47A)

A residual benefit that is covered by a no-private-use declaration is an exempt benefit.

A condition of the exemption is that the residual benefit arises from the use of property which is subject to a consistently enforced prohibition on the private use of that property and which, under the 'otherwise deductible' rule, would have a taxable value of nil. You will then be able to make an annual declaration (no-private-use declaration) stating that the benefits were provided only for employment-related purposes and there was no private portion.

The declaration must be in a form approved by the Commissioner and be made by the date your FBT return is due to be lodged. The approved declaration is shown here.

No-private-use declaration – residual benefits

I _____ on behalf of _____
(name of person authorised to make declaration) *(name of employer)*

declare that the residual benefits, described below, and provided during the FBT year from 1 April _____ to 31 March _____ arise from the use of property which is subject to a consistently enforced prohibition on the private use of that property and which, under the 'otherwise deductible' rule, would have a taxable value of nil.

_____

_____

_____
(Show sufficient detail to enable identification of the relevant benefits, eg name of employee(s) and or class of employee and or type of benefit.)

Signature _____

Date _____

The declaration is also available on our website in PDF format.

20.4 RELOCATION EXEMPTIONS

Living away from home accommodation – expense payments (section 21)

Rather than paying a cash living away from home allowance to an employee who is required to live away from their usual home, you may prefer to reimburse the employee for the accommodation expenses or pay these expenses on behalf of the employee (that is, as with an expense payment fringe benefit). In these circumstances, if you obtain the appropriate declaration from the employee, the payment is an exempt benefit. The declaration must be in the form approved by the Commissioner and the approved declaration is shown below.

Living away from home accommodation – residual benefits (subsection 47(5))

Where an employee is required to live away from home in order to perform employment-related duties and is provided with the use of a unit of accommodation, such use is an exempt benefit if the employee gives you an appropriate declaration. The declaration must be in the form approved by the Commissioner and the approved declaration is shown below.

> The declaration is not needed where the employee is employed under 'fly-in fly-out arrangements.

Living away from home declaration

I _____ declare that
(employee name)

during the period _____ 20_____ to _____ 20_____ I was required to live away from my usual place of residence in order to perform the duties of my employment and that during that period my usual place of residence was

_____
(state place where you usually live)

and the nature of that residence was _____ and, during the period the place at which I actually resided

was _____

_____
(state all addresses at which you resided while away from home in the period stated above)

Signature _____

Date _____

> The declaration is also available on our website in PDF format.

Relocation – engagement of relocation consultant (section 58AA)

From 1 April 2006, if a relocation consultant is used to assist with the relocation of an employee, or their family members, you may be eligible to access a FBT exemption for costs associated with the engagement of the relocation consultant.

A relocation consultant is a person who assists an employee, or his or her family members, move and settle into a new location.

In order for a benefit, consisting of the engagement of a relocation consultant, to qualify as a FBT exempt benefit, the following conditions must be met:

- the engagement of the relocation consultant must be an expense payment or residual benefit
- the engagement of the relocation consultant must be in respect of the employment of your employee
- the benefit is provided under an arm's length arrangement
- if the benefit is an expense payment benefit – documentary evidence is provided to you before the date your employee declarations are due (see 4.1 for more information), and
- the engagement of the relocation consultant is required solely for one or more of the following reasons:
  - the employee is required to live away from home in order to fulfil their employment duties
  - the employee returns to their usual place of residence, having previously been relocated from their usual place of residence, in order to fulfil his or her employment
  - the employee, having previously been relocated from their usual place of residence, returns to their usual place of residence because the employee ceases to perform the employment duties he or she had previously been relocated for, or
  - in order to fulfil their duties of employment, the employee moves from his or her usual place of residence.

> **!** Any expenses a relocation consultant pays on behalf of an employee or their family member is **not** exempt from FBT.

The common services a relocation consultant can provide to assist an employee (or their family member) relocate includes:

- obtaining removalist quotes
- finding accommodation, including temporary accommodation
- lease negotiation
- providing information about transportation to the new location, and
- providing information about education and community services at the new location.

> **!** Relocation advice provided incidental to the provision of another good or service – for example, by real estate agents – does **not** qualify for this exemption (but may qualify for other relocation exemptions).

EXAMPLE

Jenny–Lee is an employee of Zig & Co Mining in Lightning Ridge. She is required to move from Lightning Ridge to Kalgoorlie in order to perform her duties as a geologist. Her employer engages a relocation consultant to assist in Jenny-Lee's relocation.

The relocation consultant provides:

- accommodation quotes
- transportation quotes
- arranges and pays for six months of furniture rental, and
- information about medical facilities at Kalgoorlie.

Zig & Co Mining is eligible for a FBT exemption for the costs involved in engaging the relocation consultant to provide information about, as well as arranging for, Jenny-Lee's relocation to Kalgoorlie. However Zig & Co Mining is not eligible for an FBT exemption for the six month furniture rental, as this expense was paid by the relocation consultant on Jenny-Lee's behalf.

Relocation – removals and storage of household effects (section 58B)

Where you meet the costs of removal and storage of household effects of employees (both new and existing) who are required to live away from home because their job location changes, the benefit is exempt.

The exemption includes the costs of removal, storage, packing, unpacking and insurance of household effects (including pets) kept primarily for the personal use of the employee or family.

Similarly, the exemption also applies where the employee's *usual* place of residence changes to another location if the removal takes place, or the storage commences, not more than 12 months after the employee begins employment-related duties at the new location.

Relocation – sale or acquisition of dwelling (section 58C)

It is not unusual for employers to bear the cost of various relocation expenses, be it for new employees or for existing employees who are required to change their job location.

Where these relocation expenses are incidental to the sale and/or purchase of a home by the employee, the expenses may be exempt benefits.

Costs incidental to the sale and/or purchase of a house are stamp duty, advertising, legal fees, agent commission, discharge of a mortgage, expenses of borrowing or any similar capital expenses.

The exemption applies to the home that is **sold** only if:

- the sale is made solely because the employee changed their usual place of residence in order to carry out employment-related duties
- the house was owned when you notified the employee of the change to the new locality
- the house was the employee's usual place of residence, and
- the sale contract was made within two years of commencing duty at the new locality.

The exemption applies to the home that is **purchased** only if:

- the employee owned a home at the former locality
- the purchase was made solely because of the relocation to another job locality
- the new home was occupied as the employee's usual place of residence, and
- the contract to purchase was made within four years of commencing duty at the new location.

Costs associated with the connection or reconnection of gas, electricity and telephone services to the new home are also exempt.

Several other requirements must be satisfied for the exemption to apply, namely:

- the relevant benefit must be of a type that would be an expense payment fringe benefit or a residual fringe benefit but for the exemption
- where the benefit is of a type that would be an expense payment fringe benefit but for the exemption, you must obtain documentary evidence of the employee's expenditure, and
- in the case of telephone connections, the employee must have had a telephone connected at the former residence.

From 1 April 2004, costs incidental to the purchase of a new dwelling by an employee relocating for employment purposes are FBT exempt, provided that the employee sells, or proposes to sell, their old dwelling within two years after the day of commencing their new employment position. That is, the employee is no longer required to sell their old dwelling before the employer can access this exemption.

If the employee does not sell their old dwelling within two years after the day of commencing their new employment position, the benefit will become FBT liable in the year of tax in which the two year period expires.

EXAMPLE

Frances was required to relocate from Geelong to Ballarat in order to perform her duties as a police officer. She commenced her duties in Ballarat on 1 January 2006.

Frances purchases a new house in Ballarat on 12 February 2006. Her employer pays the conveyancing costs associated with the purchase of the new house on 16 February 2006.

Frances fails to sell her home in Geelong by 2 January 2008. The conveyancing costs paid by Frances' employer are exempt at the time they are provided. However, as Frances did not sell her dwelling within two years after the day of commencing her new employment position, the benefit provided on the 16 February 2006 will now become FBT liable in the 2007–08 FBT year.

Relocation – connection or reconnection of certain utilities (section 58D)

Where an employee is required to live away from home in order to perform employment duties, the costs of connecting or reconnecting gas, electricity and telephone services to the new place of residence, may be exempt benefits.

Similarly, where there is a change in the employee's usual place of residence, these costs may be exempt benefits.

Several requirements must be satisfied for the exemption to apply, namely:

- the relevant benefit must be of a type that would be an expense payment fringe benefit or a residual fringe benefit but for the exemption
- where the benefit is of a type that would be an expense payment fringe benefit but for the exemption, you must obtain documentary evidence of the employee's expenditure
- in the case of telephone connections, the employee must have had a telephone connected at the former residence, and
- where the employee has permanently relocated, the benefits will be exempt only if the connection or reconnection of services is made within 12 months of the employee starting work at the new location.

Living away from home – leasing of household goods (section 58E)

A benefit that consists of leasing household goods used primarily for domestic purposes while an employee is living away from home may be an exempt benefit.

To qualify for this exemption:

- the relevant benefit must be of a type that would be an expense payment fringe benefit or a residual fringe benefit but for the exemption, and

- the employee must be provided with accommodation that is an exempt benefit, as described earlier in this chapter under **Living away from home accommodation – expense payments (section 21)** and **Living away from home accommodation – residual benefits (subsection 47(5))**.

Relocation – transport (section 58F)

Where an employee is required to live away from home in order to perform employment-related duties, or is similarly required to relocate their usual place of residence, the costs of providing relocation transport (and any meals and accommodation en route) to the employee (and family members) are exempt benefits. The exemption also applies where the employee is returning to their usual place of residence after working at another location.

The exemption does not apply to a reimbursement of the employee's car expenses where the reimbursement is calculated by reference to the distance travelled by the car. However, a reduction of the taxable value may be available (see 19.4).

20.5 RELIGIOUS AND NON-PROFIT ORGANISATION EXEMPTIONS

Religious institutions (section 57)

Benefits provided by religious institutions to a religious practitioner are exempt benefits if the benefits are provided principally because of the practitioner's pastoral duties or any other duties relating to the practice, study, teaching or propagation of religious beliefs.

A religious practitioner is someone who is:

- a minister of religion
- a student at an institution who is undertaking a course of instruction in the duties of a minister of religion
- a full-time member of a religious order, or
- a student at a college conducted solely for training people to become a member of a religious order.

Public benevolent institutions (PBIs) health promotion charities (HPCs), some hospitals and public ambulance services (section 57A)

Public benevolent institutions and health promotion charities

A PBI is distinct from a charitable institution. Generally, an organisation is recognised as a PBI if its principal objects are the relief of poverty, sickness, suffering, distress, misfortune, destitution or helplessness and its activities are carried on without purpose of private gain for particular people.

A health promotion charity is a non-profit charitable institution whose principal activity is promoting the prevention or control of diseases in human beings.

An institution with charitable activities, but which does not have as its principal objects the provision of such relief, is not a PBI.

Benefits you provide to your employees are exempt from FBT where the total grossed-up taxable value of certain fringe benefits for each employee during the FBT year is $30,000 or less.

If your employees receive benefits above this threshold you are liable for FBT on the excess (or the aggregate non-exempt amount).

More information regarding PBI's and HPC's can be found in Chapter 6. Benefits exempted by this provision may be subject to fringe benefits reporting requirements. Chapter 5 contains more information about these requirements.

Public and non-profit hospitals and public ambulance services

Public and non-profit hospitals and public ambulance services are exempt from FBT if the grossed-up taxable value of certain fringe benefits provided to each employee is $17,000 or less.

If your employees receive benefits above this threshold you are liable for FBT on the excess (or the aggregate non-exempt amount).

More information regarding public and non-profit hospitals and public ambulance services can be found in Chapter 6. Benefits exempted by this provision may be subject to fringe benefits reporting requirements. Chapter 5 contains more information about these requirements.

Live-in residential care workers (section 58)

Accommodation, residential fuel, meals or other food and drink provided to employees (and their spouse or children) of government bodies, religious institutions and non-profit organisations may be exempt benefits.

The exemption applies only where employees are engaged in caring for elderly or disadvantaged people or their children who reside with them. The employees must also reside in the same residential premises as those they are caring for. Residential premises mean a house or hostel used exclusively for the purpose of providing such accommodation.

Elderly people are those over 60 years of age and disadvantaged people are those who are intellectually, psychiatrically or physically handicapped, or who are in necessitous circumstances.

Benefits exempted by this provision may be subject to fringe benefits reporting requirements. Chapter 5 contains more information about these requirements.

Live-in domestic employees – religious institutions (section 58T)

Accommodation, household fuel, meals and other food and drink provided to an employee may be exempt benefits. However, the employer must be either a religious institution or a religious practitioner.

A religious practitioner is someone who is:

- a minister of religion
- a student at an institution who is undertaking a course of instruction in the duties of a minister of religion
- a full-time member of a religious order, or
- a student at a college conducted solely for training people to become a member of a religious order.

The employee's duties must be principally the provision of domestic and/or personal services to one or more religious practitioners (and relatives, if any). The performance of those duties must necessitate the employee living-in with the practitioner or living in accommodation within the same grounds.

Domestic services may include child care, gardening, repairs or maintenance to the home, house cleaning, nursing care and preparation of meals. Personal services may include those of a personal secretary or chauffeur.

Non-live-in domestic employees (section 58V)

Food and drink you provide to domestic employees who do not 'live-in' may be exempt benefits. However, the exemption is limited to food and drink consumed by the employee at the place of employment, at or about the time the employee performs the employment-related duties. The employer must be a religious institution or a natural person (other than a trustee).

A domestic employee's duties may include child care, gardening, home renovations, repairs or maintenance to the home, house cleaning, nursing care and preparation of meals.

An example of this exemption is a situation where a babysitter cares for children in their own home and shares lunch with them.

20.6 PROPERTY EXEMPTIONS

Property (section 41)

Property you provide to an employee may be an exempt benefit. The exemption applies if the property provided to the employee is both provided and consumed on a working day on your premises (if you are a company, the premises may be those of a related company). For example, there is no FBT on bread rolls given to bakery employees for consumption at work.

Worker entitlement funds (sections 58PA, 58PB, 58PC)

A worker entitlement fund is a (trust) fund for employee long service leave, sick leave or redundancy payments. These funds are often referred to as redundancy trusts or redundancy funds. Although these funds operate in a variety of ways, their purpose is to manage employee entitlements and provide portability and protection.

Contributions to worker entitlement funds from 1 April 2004 until 31 March 2006 will be exempt if:

- you make a payment to either an existing worker entitlement fund or an approved worker entitlement fund (you should contact your fund manager to make sure the fund is prescribed by regulation, or check the list on our website)
- the payment is made according to an existing industrial practice, and
- the payment is either for leave, redundancy or the reasonable administrative expenses of the fund.

Contributions to worker entitlement funds for the FBT year commencing 1 April 2006, and for all later FBT years, will be exempt benefits where the payment is:

- made to an approved worker entitlement fund
- made under an industrial agreement, and
- the payment is either for leave, redundancy or the reasonable administrative expenses of the fund.

A payment made according to an existing industrial practice or an existing fund will not be exempt from FBT unless it satisfies the above criteria.

20.7 REMOTE AREA EXEMPTIONS

Remote area housing (section 58ZC)

A remote area housing benefit (as described in 10.8) is an exempt benefit.

Certain meals provided to primary production employees (section 58ZD)

Expense payment, property, board or residual benefits arising in respect of the provision of meals on a working day are exempt benefits if the following conditions are satisfied:

- you are carrying on a business of primary production for the purposes of the *Income Tax Assessment Act 1997*
- your business is carried on in a remote area (see 10.8), which is the location of the employee's primary place of employment
- the meal is provided to the employee (except where the benefit is a board benefit, in which case it may also be provided to an associate of the employee), and
- the provision of the meal does not amount to the provision of a meal entertainment benefit (as described in 14.3).

A business of primary production is:

- cultivating or propagating plants, fungi or their products or parts (including seeds, spores, bulbs and similar things) in any physical environment
- maintaining animals for the purpose of selling them or their bodily produce (including natural increase)
- manufacturing dairy produce from raw material that you produce
- conducting operations relating directly to taking or catching fish, turtles, dugong, bêche-de-mer, crustaceans or aquatic molluscs
- conducting operations relating directly to taking or culturing pearls or pearl shell
- planting or tending trees in a plantation or forest that are intended to be felled
- felling trees in a plantation or forest, or
- transporting trees, or parts of trees, that you felled in a plantation or forest to the place:
  - where they are first to be milled or processed, or
  - from which they are to be transported to the place where they are first to be milled or processed.

> ❗ There is no requirement for the benefit to be provided on the business premises of the employer for this exemption to apply.

20.8 OTHER EXEMPTIONS

Loans (section 17)

An exempt benefit arises from a loan in any of the following circumstances.

- You are engaged in the business of money lending and the interest rate on a loan to an employee is fixed at a rate at least equal to the interest applicable under a comparable loan made to a member of the public in the ordinary course of business at about the time the loan was made to the employee.
- You are engaged in a business of money lending and, for each year of tax over which the loan extends, the rate of interest is variable, but never less than the arm's length rate you charged on loans made about the time the loan was made to the employee.
- You advance money to an employee solely for the purpose of meeting expenses to be incurred within a six-month period of the advance being made; the expense must be incurred in carrying out employment-related duties with you (the employer who made the advance); the expenses must be accounted for by the employee and any excess advance refunded or otherwise offset.
- You make an advance, repayable within 12 months, to an employee solely to pay a security deposit, for example, rental bond or service connection deposit, in respect of accommodation; the accommodation must give rise to an exempt benefit in accordance with the conditions outlined under **Living away from home accommodation – expense payments (section 21)** and **Living away from home accommodation – residual benefits (subsection 47(5))**, or the accommodation must be temporary accommodation eligible for a reduced taxable value in accordance with the relocation concessions (see 19.4).

Expense payments – no-private-use declaration (section 20A)

An expense payment benefit that is covered by a no-private-use declaration is an exempt benefit. Where you reimburse only employment-related expenses, you can make an annual declaration (as shown below) stating that the benefits were provided only for employment-related purposes and there was no private portion.

The declaration must be in a form approved by the Commissioner and be made by the declaration date.

The approved declaration is shown here.

No-private-use declaration – expense payment benefits

I _____
(name of person authorised to make declaration)

on behalf of _____
(name of employer)

declare that the expense payment benefits, described below, and provided during the FBT year from 1 April _____ to 31 March _____ are payments or reimbursements of expenses which, under the 'otherwise deductible' rule, would have a taxable value of nil.

_____

_____

_____
(Show sufficient detail to enable identification of the relevant benefits, eg name of employee(s) and or class of employee and or type of expense.)

Signature _____

Date _____

The declaration is also available on our website in PDF format.

Food or drink (section 54)

Where employees receive meals that are board fringe benefits, any additional food and drink supplied to them, such as morning and afternoon teas, is exempt. However, it is a condition of the exemption that the food and drink must be provided on your premises or worksite. Food and drink supplied at a party, reception or other social function is not exempt.

International organisations, and diplomatic and consular immunities (sections 55 and 56)

Benefits provided by the following employers are exempt benefits:

- certain international organisations that are exempt from income tax and other taxes by virtue of the *International Organisations (Privileges and Immunities) Act 1963*, and
- organisations established under international agreements to which Australia is a party and which oblige Australia to grant the organisation a general tax exemption.

A benefit that would be exempt from tax in Australia by the operation of the *Consular Privileges and Immunities Act 1972* or the *Diplomatic Privileges and Immunities Act 1967* is an exempt benefit.

Newspapers and periodicals (section 58H)

The costs of providing newspapers and periodicals to employees for business purposes are exempt benefits. The exemption does not apply where the business use is merely incidental.

Compensable work-related trauma (section 58J)

Benefits provided for work-related injury are exempt benefits.

To qualify for exemption, such benefits (for example, the payment of hospital or medical costs or associated ambulance, travel and accommodation costs) must be provided for 'compensable work-related trauma' suffered by an employee.

Compensable work-related trauma is an injury or disease related to employment, for which the employee is entitled to receive compensation, etc under a workers' compensation law. If the employee's employment is not covered by a workers' compensation law, an ailment will qualify if it would have been compensable if such a law had applied, for example, where public sector employers do not pay workers' compensation insurance but directly compensate the employee.

Benefits constituted by the insurance cover provided under a workers' compensation insurance policy are also exempt benefits.

In-house health care facilities (section 58K)

Medical services and other forms of health care are exempt benefits if provided in worksite first aid posts and medical clinics.

The exemption applies to any form of care or test relating to a person's health, for example, medical treatment, first aid, physiotherapy, diagnostic services, health counselling, or the provision of drugs in a clinic or other medical facility operated wholly or principally to provide health care relating to work-related injuries of employees. Such a clinic must be on your premises, or those of a related company, or at or adjacent to the employees' worksite (for example, a construction site).

While the clinic, etc must be operated principally for treating employees' work-related injuries, incidental treatment provided in the clinic for illness or injuries not related to work, as well as treatment of members of employees' families, also qualifies for exemption. So does health care provided away from the clinic by a member of the clinic's staff (for example, a home visit by a company doctor).

Occupational health and migrant language training (section 58M)

Several categories of work-related health and counselling benefits are exempt benefits.

- **Work-related medical examinations.** These are examinations or tests carried out by a medical practitioner, nurse, dentist, optometrist or audiometrist where the employee is required to undergo the examination or test in order to commence new employment, to transfer to a different job with the same employer, or to gain entry to a superannuation fund.
- **Work-related medical screening.** This is an examination or test carried out by a medical practitioner, nurse, dentist, optometrist or audiometrist to determine whether the employee is suffering from, or is at risk of suffering from, an injury or illness related to the employee's employment. It is a condition of exemption that the examination or test is carried out as part of a screening program that applies generally to employees with similar work-related risks.
- **Work-related preventative health care.** This is any form of care provided by a medical practitioner, nurse, dentist or optometrist for the purpose of preventing the employee from suffering from an injury or illness relating to the employee's employment. It is a condition of exemption that the care is generally provided to employees with similar work-related risks. The provision of drugs, vaccines or other medical preparations in connection with the preventative health care is also exempt.
- **Work-related counselling.** This is individual or group counselling (for example, a seminar) related to matters such as safe work practices, health, fitness, stress management, drug or alcohol abuse, rehabilitation or retirement problems. You must provide the benefit in order to improve or maintain the efficiency of employees or prepare them for retirement and not as a form of remuneration. If counselling is given to an associate of an employee (for example, the employee's spouse), the employee must accompany the associate.
- **Migrant language training.** This is an English language course attended by a non-English speaking person who is, or intends to be, an immigrant to Australia. The exemption extends to associates of the employee.

The exemption also applies to benefits that meet the cost of travelling to attend these forms of examinations, screening, preventative health care, counselling or training which, but for the exemption, would be fringe benefits of the following types:

- a car fringe benefit, where the car is the means of travelling to attend the examination, screening, preventative health care, counselling or training
- an expense payment fringe benefit, where the expenditure is for transport, meals or accommodation for the person travelling (you must have documentary evidence of the expenditure)
- a property fringe benefit, consisting of meals for the person travelling, or
- a residual fringe benefit, consisting of transport or accommodation for the person travelling.

Where a cents per kilometre reimbursement is made of car expenses incurred in travelling to attend a work-related medical examination, screening, preventative health care, counselling session or migrant language training, this exemption does not apply. However, a reduction in taxable value may be available (see 19.3).

Emergency assistance (section 58N)

Benefits you provide by way of emergency assistance are exempt from FBT.

Emergency assistance is assistance for immediate relief of a victim, or potential victim, of an emergency where the assistance is:

- first aid or other emergency health care
- emergency meals, food supplies, clothing, accommodation, transport, or use of household goods
- temporary repairs, or
- any similar matter.

For the purposes of this exemption, an emergency is a natural disaster, an armed conflict, a civil disturbance, an accident, a serious illness, or any similar matter.

If the emergency assistance is health care, the exemption applies only if the treatment is provided by an employee of yours (or a related company), or on your premises (or those of a related company) or at or near an employee's worksite. That is, the exemption would not apply if you pay for an accident

victim's medical or hospital bills, but would apply to emergency treatment by a company doctor at the accident site.

Long-term benefits such as providing a new house or car to replace one destroyed as a result of an emergency are not exempt as emergency assistance.

Minor benefits (section 58P)

A benefit which is:

- less than $100 in value and
- it is considered that it is unreasonable to treat the benefit as a fringe benefit

is an exempt benefit.

Less than $100 in value

A minor benefit is a benefit which has a 'notional taxable value' of less than $100. The notional taxable value of a minor benefit is, broadly, the amount that would be the taxable value if the benefit was a fringe benefit.

Where you provide an employee with separate benefits that are in connection with each other, for example, a meal, a night's accommodation and taxi travel, you need to look at each individual benefit provided to the employee to see if the notional taxable value of each benefit is less than $100.

If the notional taxable value of a benefit is less than $100, you then need to determine if it would be unreasonable to treat the minor benefit as a fringe benefit.

> The Government has announced that from 1 April 2007, the minor benefits threshold will increase from $100 to $300.

Criteria for determining whether it would be unreasonable to treat the minor benefit as a fringe benefit

There are five criteria which need to be considered when deciding if it would be unreasonable to treat the minor benefit as a fringe benefit.

- The infrequency and irregularity with which associated benefits, being benefits that are identical or similar to the minor benefit and benefits given in connection with the minor benefit are provided. The more frequently and regularly associated benefits are provided, the less likely that the minor benefit will qualify as an exempt benefit.
- The total of the notional taxable values of the minor benefit and identical or similar benefits to the minor benefit. The greater the total value of the minor benefit and identical or similar benefits, the less likely it is the minor benefit will qualify as an exempt benefit.
- The likely total of the notional taxable values of other associated benefits, that is, those provided in connection with the minor benefit. For example, where a meal, which is a minor benefit, is provided in connection with a night's accommodation and taxi travel, which themselves may or may not be a minor benefit, the total of their taxable values must be considered. The greater the total value of other associated benefits, in this case being the accommodation and the taxi travel, the less likely it is that the minor benefit will qualify as an exempt benefit.
- The practical difficulty in determining what would be the notional taxable value of the minor benefit and any associated benefits. This would include consideration of the difficulty for you in keeping the necessary records in relation to the benefits.
- The circumstances in which the minor benefit and any associated benefits were provided. This would include consideration as to whether the benefit was provided as a result of an unexpected event, and whether or not it could be considered principally as being in the nature of remuneration.

If, after considering the five criteria, you conclude that it would be unreasonable to treat the benefit as a fringe benefit, the benefit will be an exempt benefit.

In determining if the minor benefit exemption applies, you need to examine the nature of the benefit provided and consider each of the various criteria – value, frequency and regularity of provision, recording and valuation difficulties – before concluding whether the exemption should apply to a minor benefit.

When the minor benefits exemption does not apply

The exemption does not extend to airline transport fringe benefits or other in-house fringe benefits, the taxable values of which are in any case reducible by $500 under the concession explained in the respective chapters for these types of fringe benefits.

Nor does the exemption apply to minor entertainment benefits provided to employees of income tax-exempt organisations unless they are incidental to the provision of entertainment to persons who are neither employees of the employer nor associates of employees. However, even in those circumstances, the exemption does not apply to meals or benefits provided in connection with meals.

This latter exclusion does not prevent minor entertainment benefits provided by a tax-exempt organisation to recognise a special achievement of an employee from being exempt as long as they are provided on the employer's premises or a place where the employee performs their employment-related duties. For example, a meal given to the family of a professional footballer in the club's dining room to mark a milestone such as selection in a representative team, or being awarded best and fairest player, may be exempt under this rule.

Examples

It is common practice for employers to give employees gifts on special occasions, such as at Christmas time. A single gift to each employee of, say, a bottle of whisky or perfume would be an exempt benefit, where the value was less than $100.

Flowers given to employees on special occasions would be given on an irregular and infrequent basis. This could include flowers given to an employee on the birth of a child, for a birthday, or as a get well gift. These would be an exempt benefit where each individual benefit, had a notional taxable value of less than $100.

In contrast, flowers given to an employee each fortnight would be given on a frequent and regular basis and would not be an exempt benefit, even where the value of each individual benefit is less than $100.

The occasional use of one of your vehicles by an employee for a special purpose, such as rubbish removal or for travel from home to work during a transport strike, would be an exempt benefit provided the employee in question does not have a general entitlement to use the vehicle for private purposes.

Subject to the above criteria being satisfied, the following are further examples of benefits that are likely to be exempt under the minor benefits rules:

- a welcome gift, for example a food hamper, provided to a new employee
- meals provided on an ad hoc basis to an employee three times in the year, where on each occasion the value is $75
- tolls provided to an employee through an e-tag facility 20 times during the year, where each benefit has a value of $7
- a short-term advance to help an employee pay unexpected debts
- the recovery of overpaid salary by instalment arrangements, and
- permitting staff to have waste or left-over materials of a business, such as packing cases or fabric remnants.

Long service awards (section 58Q)

Long service awards granted in recognition of 15 years or more service are exempt provided the value of the award does not exceed a specified maximum amount. For this purpose, the value of the award is the amount that would be the taxable value if the award was a fringe benefit.

Before 1 April 2005

Where the period of service being recognised by the award is 15 years, the specified maximum value is $500. If the first long service award received by an employee recognises a period of service greater than 15 years, the maximum value increases by $50 for each additional year (for example, the maximum value for a first award recognising 20 years service is $750).

If the employee has received a previous long service award (that is, in recognition of 15 years or more service) from you, the maximum value of any subsequent award is $50 for each year in excess of 15 years that is being recognised by the additional award.

Where the value of an award exceeds the relevant maximum value, no part of the award is exempt.

From 1 April 2005 onwards

From 1 April 2005, where the period of service being recognised by the award is 15 years, the specified maximum value is increased to $1,000. If the first long service award received by an employee recognises a period of service greater than 15 years, the maximum value increases from $50 to $100 for each additional year (for example, the maximum value for a first award recognising 20 years service is $1,500).

If the employee has received a previous long service award (that is, in recognition of 15 years or more service) from you, the maximum value of any subsequent award is $100 for each year in excess of 15 years that is being recognised by the additional award.

Where the value of an award exceeds the relevant maximum value, no part of the award is exempt.

Safety awards (section 58R)

An award genuinely related to occupational health or occupational safety achievements that is granted to an employee is exempt from tax if its value does not exceed $200. Where you grant more than one award to an employee during an FBT year, each award is exempt provided the aggregate value of the awards does not exceed $200. For this purpose, the value of the award is the amount that would be the taxable value if the award was a fringe benefit.

Where the $200 limit is exceeded, no part of the award (or awards) is exempt.

You do not need to keep specific records of awards to individual employees if you can conclude on a reasonable basis that the value of any awards granted to an employee will not exceed the $200 limit.

Australian Traineeship System (section 58S)

Food, drink and accommodation provided to people training under the Australian Traineeship System may be exempt benefits. To be exempt, the benefits must be provided in accordance with an award or an industry custom and must not be provided at a party, reception or other social function.

Live-in help – elderly or disadvantaged persons (section 58U)

An exemption from FBT applies to certain benefits that you provide to people employed in caring for elderly or disadvantaged persons and who reside with them in their own homes. An elderly person is one who is 60 or more. Disadvantaged people are those who are intellectually, psychiatrically or physically handicapped or who are in necessitous circumstances.

The benefits that are exempt are:

- the provision of accommodation, in the home of the person being cared for, to the employee (and to the employee's spouse and children)
- the provision of residential fuel in connection with that accommodation
- meals provided in that home to the employee (and to the employee's spouse and children), and
- other food or drink similarly provided.

Provision of certain work related items (section 58X)

Expense payment, property or residual benefits arising in respect of the following items are exempt benefits only where they are provided by the employer to an employee.

- A mobile phone or a car phone primarily for use in the employee's employment.
- An item of protective clothing that is required for the employment of the employee.
- A briefcase.
- A calculator.
- A tool of trade.
- An item of computer software for use in the employee's employment.
- An electronic diary, a personal digital assistant (PDA) or similar item.
- A notebook computer, a laptop computer or a similar portable computer (see restrictions below).
- From 1 April 2006, portable printers designed specifically for use with a notebook computer, a laptop computer or a similar portable computer.

A notebook computer, a laptop computer or a similar portable computer is not exempt if earlier in an FBT year an expense payment benefit or a property benefit for another portable computer has already been provided to the employee.

Membership fees and subscriptions (section 58Y)

Expense payment or property benefits arising in respect of the following are exempt benefits:

- a subscription to a trade or professional journal
- an entitlement to use a corporate credit card, and
- an entitlement to use an airport lounge membership.

Approved student exchange programs (section 58ZB)

A benefit consisting of an employee (or an associate of an employee) being placed in an approved student exchange program is an exempt benefit where you (or an associate) have not selected or taken part in selecting the participant.

For a program to be approved, it must be run by a body registered with the relevant state or territory body in accordance with the National Guidelines for Student Exchange. These guidelines are published by the National Co-ordinating Committee for International Secondary Student Exchange.

No fringe benefit where benefit results in a dividend under Division 7A

Where a loan benefit or a debt waiver benefit is provided by a private company to an employee (or associate) who is also a shareholder (or associate), a fringe benefit will not arise if the loan or debt waiver results in the company being taken to have paid a dividend under Division 7A of the *Income Tax Assessment Act 1936* to the shareholder (or associate).

21 EMPLOYEE CARS – APPLYING THE 'OTHERWISE DEDUCTIBLE' RULE

This chapter explains how to apply the 'otherwise deductible' rule where you (the employer) have met some or all of the costs related to operating a car owned or leased by an employee. Depending on how you assist with these costs, the fringe benefits that may arise are loan, expense payment, property or residual fringe benefits.

> Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to an associate of an employee (for example, a relative).

Various chapters in this guide describe a four-step procedure for calculating the reduction available under the otherwise deductible rule. Step 2 of the four-step procedure is calculating an amount that hypothetically would have been allowable as an income tax deduction to the employee. However, you have to use a different step 2 where the costs of operating the employee's own car are involved. Three methods are available, with different substantiation requirements and varying results.

21.1 EXPLANATION OF METHODS

First method – logbook record

Logbook records and/or odometer records must be maintained by or on behalf of the employee, as explained in 21.2.

The employee must provide the logbook records and/or odometer records (or copies of them) to you by the due date for lodging your annual FBT return or, where you are not required to lodge a return, by 21 May.

Using the formula described in 21.3, you calculate the percentage of business use. You then use this percentage of business use when applying the otherwise deductible rule, with step 2 modified as follows.

Step	Action
1	Ignoring any payment or contribution made by the employee, calculate the taxable value of the fringe benefit.
2	Multiply the step 1 amount by the percentage of business use calculated according to the formula described in 21.3.
3	Now look at any payment or contribution made by the employee. How much of this payment or contribution is allowable as an income tax deduction to the employee?
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced

Second method – car travelled 5,000 business kilometres or more

This method cannot be used unless the car has travelled a minimum of 5,000 business kilometres during the year.

The employee must provide a declaration to you by the due date for lodging your annual FBT return or, where you are not required to lodge a return, by 21 May. The approved format for such a declaration is shown in 21.6 (sections A and B must be completed).

Because the car has travelled a minimum of 5,000 business kilometres during the year, the percentage of business use is deemed to be 33⅓%. (The actual percentage of business use is irrelevant.) You then use the deemed percentage of business use when applying the otherwise deductible rule, with step 2 modified as follows.

Step	Action
1	Ignoring any payment or contribution made by the employee, calculate the taxable value of the fringe benefit.
2	Multiply the step 1 amount by the deemed percentage of business use, that is, 33⅓%.
3	Now look at any payment or contribution made by the employee. How much of this payment or contribution is allowable as an income tax deduction to the employee?
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.

Third method – no logbook and no requirement to travel 5,000 business kilometres or more

The employee must provide a declaration to you by the due date for lodging your annual FBT return or, where you are not required to lodge a return, by 21 May. The approved format for such a declaration is shown in 21.6 (sections A and C must be completed). The declaration requires the employee to calculate a percentage of business use from the other information in the declaration.

The maximum percentage of business use that may be used is 33⅓%. It is used when applying the otherwise deductible rule, with step 2 modified as follows.

Step	Action
1	Ignoring any payment or contribution made by the employee, calculate the taxable value of the fringe benefit.
2	Multiply the step 1 amount by the percentage of business use specified on the employee declaration (the maximum is 33⅓%).
3	Now look at any payment or contribution made by the employee. How much of this payment or contribution is allowable as an income tax deduction to the employee?
4	Subtract the actual deductible amount (step 3) from the hypothetical deductible amount (step 2). The result is the amount by which the taxable value of the fringe benefit may be reduced.

21.2 LOGBOOK AND ODOMETER RECORDS

This information is relevant only to the first method described in 21.1.

In a logbook year, both logbook records and odometer records must be maintained by or on behalf of the employee. In a year that is not a logbook year, odometer records must be maintained.

A year is a logbook year if:

- none of the previous four years were a logbook FBT year for that car (for example, when a car is first used for business or employment-related purposes)
- you elect to treat the year as a logbook year (for example, to monitor the percentage of business travel), or
- the Commissioner of Taxation, by written notice, requires you to treat the year as a logbook year.

The logbook records contain a record of business use and are usually maintained for a 12-week period. The odometer records are a record of the total distance travelled during the same 12 weeks that the logbook records are maintained, and also of the total distance travelled in each year.

You should maintain records of additional information, such as the car's make, model, registration number and percentage of business use, as part of your business records.

21.3 ESTIMATING THE PERCENTAGE OF BUSINESS USE

This information is relevant only to the first method described in 21.1.

You calculate the percentage of business use of a car using the following formula:

$$\frac{A}{B} \times 100$$

Where:

A = your *estimate* of business kilometres travelled by the car during the FBT year (or part-year, as the case may be), and

B = the total kilometres *actually* travelled by the car during the same period.

The business use percentage and your estimate of the business kilometres must be entered into your business records by the due date for lodging your annual FBT return or, where you are not required to lodge a return, by 21 May.

Estimating the business kilometres travelled in a logbook year

When estimating the business kilometres travelled in a logbook year:

- a logbook recording details of business journeys undertaken in the car must be kept for a continuous period of at least 12 weeks, as well as odometer records of total kilometres travelled during that period
- odometer records of the total kilometres travelled during the year must be kept, and
- you must estimate the number of business kilometres travelled during the full FBT year (or part-year if appropriate). The estimate must take into account all relevant matters, including the logbook records, odometer records, any other records you keep, and any variations in the pattern of business use throughout the year, for example, holidays or seasonal factors.

Estimating the business kilometres travelled in a year that is not a logbook year

When estimating the business kilometres travelled in a year that is not a logbook year:

- odometer records of the total kilometres travelled during the year (or part-year if appropriate) must be kept, and
- you must estimate the number of business kilometres travelled during the full FBT year (or part-year if appropriate). The estimate must take into account all relevant matters, including the logbook records from the logbook year, odometer records for the current year, any other records you keep, and any variations in the pattern of business use throughout the year (for example, holidays or seasonal factors).

Replacement cars

If you have replaced a car during the year, the replacement car may be treated as though it were the replaced car for the purposes of complying with the requirements outlined in 21.5.

If you kept logbooks and odometer records during the year or in a previous year for the purpose of estimating a business percentage for the replaced car, that percentage may be transferred to the new car if it remains appropriate.

The transfer of a business percentage in this way is conditional on you recording in your business records the make, model and registration number of both cars and the date on which the replacement was made. These entries must be made on or before 21 May (or such later date as is agreed on for lodging the annual return). Odometer records kept for the cars during the replacement year must show details of the odometer readings of both the replaced car and the new car on the replacement date.

21.4 INFORMATION TO BE RECORDED IN LOGBOOK RECORDS

> **!** This information is relevant only to the first method described in 21.1.

The Tax Office does not produce an official logbook. You are entitled to keep records of your own design, or to purchase one of the many commercial products available. However, the following details must be entered in the logbook for **each business journey**:

- the date(s) on which the journey began and ended
- the odometer readings at the start and end of each journey
- the kilometres travelled, and
- the purpose of the journey.

The logbook records must be in English and entries must be made at the end of the trip or as soon as reasonably practicable afterwards.

Where two or more business trips are undertaken consecutively on any day, only one entry for the series needs to be recorded in the logbook. For example, an entry for a salesman who called on 10 customers while working in the Bathurst-Orange area of New South Wales could record the odometer readings at the start and end of the consecutive journeys and describe the purpose of the travel as '10 customer calls, Bathurst-Orange area'.

The period during which the logbook was kept must be specified in the logbook at the end of the logbook period.

21.5 INFORMATION TO BE RECORDED IN ODOMETER RECORDS

> **!** This information is relevant only to the first method described in 21.1.

Odometer records are a record of the total kilometres travelled by the car during the FBT year or, if the car was not used to provide fringe benefits for the whole year, for that part of the year when it was so used.

Odometer records should also be kept for the same period for which a logbook is kept.

The Tax Office does not produce an official odometer record. You are entitled to keep records of your own design, or to purchase one of the many commercial products available. However, the following details must be entered in the odometer records for the beginning of each period (that is, year, part-year or logbook period) and also for the end of each period:

- the date the period began, or ended, as the case may be, and
- the odometer reading at the start of the period, or at the end of the period, as the case may be.

The odometer records must be in English, and the entries should be made at the respective times to which the readings relate, or as soon as reasonably practicable afterwards.

If you replace a car during the year and transfer the business percentage to the new car, the odometer records must also include an entry showing odometer readings for the replaced car and the new car on the replacement date.

21.6 EMPLOYEE DECLARATION

This information is relevant only to the second and third methods described in 21.1.

In order to substantiate the percentage of business use of an employee's car, the employee must provide a declaration to you. The declaration should be in the approved form as set out in the relevant chapter for that type of benefit (for example, for an expense payment fringe benefit, see the declaration shown in 9.5). However, the information contained in the declaration must be extended by the addition of either section B or C (whichever is appropriate) as shown below.

MORE INFORMATION

- Miscellaneous Taxation Determination TD 93/90 – Income tax: does the 'otherwise deductible' rule apply to reduce the taxable value of fringe benefits provided to associates of employees?

Employee's car declaration

SECTION A

(This section is the usual declaration for loan, expense payment, property or residual fringe benefits as set out in chapters 8, 9, 17 or 18.)

SECTION B

*(To be completed where the benefit relates to a car that travelled more than an average of 96 business kilometres per week, and the second method at **21.1** has been used.)*

I declare that the period of the FBT year during which the car was in use by me for business purposes was

_____ 20_____ to _____ 20_____ and that an average of more than 96 business kilometres per week was travelled in that period.

Signature _____

Date _____

SECTION C

*(To be completed where the benefit relates to a car and the third method at **21.1** has been used.)*

I declare that:

- the period of the FBT year the car was in use by me for business purposes was _____ 20_____ to _____ 20_____
- the total number of kilometres travelled by the car in that period was _____ , and
- the number of business kilometres travelled by the car in that period was _____

Explanatory notes

1 If section B is completed, the tax deductible percentage stated in section A should be 33⅓%.
2 If section C is completed, the tax deductible percentage stated in section A should be the lesser of 33⅓% and the proportion of business kilometres to total kilometres as shown in section C.

DEFINITIONS

Activity statement
You use an activity statement to report your business tax entitlements and obligations, including FBT instalments, GST, pay as you go (PAYG) instalments and withheld amounts.

Aggregate non-exempt amount
The aggregate non-exempt amount refers to the amount that exceeds the capping threshold of the grossed-up taxable value of benefits provided to employees.

All-day parking
All-day parking means the parking of a single car for a continuous period of at least six hours or more between the hours of 7.00am and 7.00pm on a particular day.

Associates
Associates include people and entities closely associated with you, such as relatives, or closely connected companies or trusts. A formal definition is contained in section 26AAB of the Income Tax Assessment Act 1936 and is modified by sections 148, 158 and 159 of the Fringe Benefits Tax Assessment Act 1986.

Available for private use
A car is considered to be available for private use if:
- the car is not at your premises, and the employee is allowed to use it for private purposes, or
- it is garaged at or near an employee's home.

If a car is garaged at an employee's (or an associate's) home, it is treated as being available for their private use, regardless of whether they are actually allowed to use it privately. If the employee's home is their workplace, the car is considered to be available for their private use if it is garaged there.

Base value
The base value of a car owned is:
- the original purchase price paid
- the costs of any fitted accessories that are not required for business use of the car, for example, car stereo or air conditioner, and
- dealer delivery charges, excluding registration and stamp duty charges.

The base value of a car which is leased is the cost price or market value at the time the lease commenced.

Base year
For purposes of the record keeping exemption arrangements, this is the FBT year ended 31 March 1997 or any following year.

Benchmark interest rate
The benchmark interest rate is also known as the statutory interest rate. This interest rate is published by the Commissioner of Taxation each year and must be used to calculate the taxable value of:
- a fringe benefit provided by way of a loan, or
- a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

Benefit
A benefit includes any right, privilege, service or facility.

Business premises
Business premises means premises, or part of premises, that are used, in whole or in part, for the purposes of business operations.

Car
The following types of vehicles (including four-wheel drive vehicles) are cars.
- Motor cars, station wagons, panel vans and utilities (excluding panel vans and utilities designed to carry a load of one tonne or more).
- All other goods-carrying vehicles designed to carry less than one tonne.
- All other passenger-carrying vehicles designed to carry fewer than nine occupants.

Commercial parking station
A commercial parking station is one that, in relation to a particular day, is a permanent commercial car parking 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. It does not include a parking facility on a public street, road, lane, thoroughfare or footpath paid for by inserting money in a meter or by obtaining a voucher.

Declaration
A declaration is a written advice given to an employer by an employee about the following information relating to fringe benefits received.
- The percentage of business/private use.
- The reduction allowed under the 'otherwise deductible' rule.

Declarations are required to be in a form approved by the Commissioner. The approved wording and information to be contained in these employee declarations are included throughout this guide.

Declaration date
Refers to the date an employer is required to lodge their FBT return (21 May) for the FBT year, or such later date as the Commissioner allows.

Employee
Employee means:
- a current employee
- a future employee, or
- a former employee.

An employee is generally someone who receives, or is entitled to receive, salary and wages in return for work or services provided, or for work under a contract that is wholly or principally for the person's labour.

For FBT, 'employees' includes company directors, office holders, common law employees and recipients of compensation payments.

Employee or recipient's contribution
This is also known as a recipient's payment or recipient's rent.

Generally the payment is a cash payment made by an employee to you or the person who provided the benefit. The employee or recipient's contribution must be made from the employee's after-tax income.

An employee or recipient's contribution may have to be included in your assessable income. (As a general rule, the costs incurred in providing fringe benefits are income tax deductible.)

Excluded fringe benefits
These are benefits that are excluded from the reportable fringe benefits arrangements. They are still taxable benefits.

Exempt benefits
Exempt benefits are benefits that are not considered to be fringe benefits and therefore not subject to FBT.

FBT year
The FBT year runs from 1 April to 31 March.

Fringe benefit
A fringe benefit is a benefit provided to an employee (or their associate, such as a family member) in respect of their employment. Benefits can be provided by you, your associate, or by a third party under an arrangement with you. An employee can be current, a future or former employee.

Goods and services tax (GST)
GST is a broad-based tax of 10% on the supply of most goods, services and anything else consumed in Australia and the importation of goods into Australia.

GST (input tax) credit
You are entitled to a GST input tax credit for the GST included in the price of purchases you make for use in your business. But you are not entitled to a credit to the extent you use the purchase for private purposes or, in many cases, to make input taxed sales. You will need to have a tax invoice to claim a GST credit (except for purchases with a GST-inclusive price of $55 or less, although you should have some documentary evidence to support these claims).

Individual fringe benefits amount
The individual fringe benefits amount is the total value of all fringe benefits, (other than excluded fringe benefits) provided to a particular employee, in an FBT year. It includes benefits provided to an associate of the employee. The individual fringe benefits amount also includes benefits provided by your associate or under an arrangement between you and a third party.

Logbook year
A year is a logbook year if:
- none of the previous four years was a logbook year for that car
- you elect to treat the year as a logbook year (for example, to increase the nominated percentage of business travel), or
- the Commissioner of Taxation, by written advice, requires you to treat the year as a logbook year.

Market value
The arm's length price payable by the general public in a normal commercial transaction.

Meal entertainment
The provision of meal entertainment means the provision of:
- entertainment by way of food or drink
- accommodation or travel in connection with, or to facilitate the provision, of such entertainment, or
- the payment or reimbursement of expenses incurred in obtaining something covered by the above.

Notional tax amount
The amount on which FBT instalments are based is called the 'notional tax amount'. Generally, this is the amount of tax assessed for the last return lodged.

One-kilometre radius
For purposes of a car parking fringe benefit, the one-kilometre distance is measured not by radius but by the shortest practicable direct route (by whichever means this route is travelled, for example, by foot, car or boat).

Operating cost method
The operating cost method is also known as the logbook method. The taxable value of a car fringe benefit is a percentage of the total costs of operating the car during the FBT year. The percentage varies with the extent of actual private use. The lower the private use of the car, the lower the taxable value will be.

Otherwise deductible rule
This means that the taxable value of a benefit may be reduced by the amount which an employee would have been entitled to claim as an income tax deduction in their personal tax return if the benefit was not paid for, reimbursed or provided, by you, the employer.

Place of residence
It means a place where a person lives or has sleeping accommodation. It does not matter whether it is on a permanent or temporary basis. It also does not matter whether the person shares the place with someone else.

Primary place of employment
An employee's primary place of employment is, basically, the employer's premises at which the employee performs the majority of their employment-related duties on a particular day.

Private use
A car is made available for private use by an employee on any day the car is not at your premises and the employee is allowed to use it for private purposes, or the car is garaged at the employee's home.

Quasi-fringe benefits
Quasi-fringe benefits are benefits that are exempt from FBT solely because they are provided to either:

- employees of public benevolent institutions, certain charitable institutions or some hospitals, including government employees who work in public hospitals, or
- live-in carers of disadvantaged or elderly people where the employer is a government body, religious institution or non-profit company.

Quasi-fringe benefits are included in the employee's reportable fringe benefits amount.

Remote area
For most employers, accommodation is in a remote area if it is not in or near an urban centre. The accommodation must be located at least 40 kilometres from a town with a census population of 14,000 to less than 130,000, or at least 100 kilometres from a town with a census population of 130,000 or more (population figures based on the 1981 Census).

If the accommodation is in zone A or B (for income tax purposes), it must be located at least 40 kilometres from a town with a census population of 28,000 to less than 130,000, or at least 100 kilometres from a town with a census population of 130,000 or more.

Where the circumstances warrant it, the Commissioner has the discretion to treat a person who resides or works in an area adjacent to an eligible urban area as residing or working outside that area if people who live or work near that person are outside the area.

An extended exemption applies to housing benefits provided to employees of certain hospitals, charitable institutions or a police service. For such benefits, accommodation is treated as being in a remote area where it is situated at least 100 kilometres from a town with a census population of 130,000 or more.

Reportable fringe benefits amount
If you provide fringe benefits with a total taxable value of more than $1,000 to an employee in an FBT year, you must report the grossed-up taxable value of the benefits on the employee's payment summary. These are called reportable fringe benefits.

The Government has announced that from 1 April 2007, the reporting exclusion threshold will increase from $1,000 to $2,000.

Representative fee
For the purposes of a car parking fringe benefit, the fee for any particular day is not representative if it differs substantially from the average lowest fee ordinarily charged for all-day parking. For this purpose, an employer may compare the fee for a particular day with the average fee charged during either of the four-week periods beginning or ending on that particular day.

Residence
Residence means the place, especially the house, in which a person resides. It also means a dwelling place or a dwelling.

Residual fringe benefit
Any fringe benefit that does not fit into one of the other 12 categories of fringe benefits is called a residual benefit.

Salary sacrifice arrangement
A salary sacrifice arrangement is an arrangement between an employer and an employee, whereby the employee agrees to forgo part of their future entitlement to salary or wages in return for the employer or associate providing them with benefits of a similar value.

Statutory formula method
The statutory formula method for car fringe benefits is based on applying a statutory percentage to the car's base value. This percentage changes with the total distance travelled by the car during the FBT year (regardless of whether or not it is private travel). The greater the distance travelled, the lower the statutory percentage and therefore the lower the taxable value.

Statutory interest rate
The statutory interest rate is also known as the benchmark interest rate. This interest rate is published by the Commissioner of Taxation each year and must be used to calculate the taxable value of:

- a fringe benefit provided by way of a loan, or
- a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

Statutory percentage
When calculating the taxable value of a car fringe benefit using the statutory formula method, the car's base value is multiplied by a statutory percentage. The statutory percentages vary according to the total number of kilometres travelled by the car during the FBT year.

Taxable supplies (sales)
For GST, a sale or supply includes a sale of goods or services, a lease of premises, hire of equipment, giving of advice, export of goods, and the supply of other things. You are required to pay GST on taxable supplies (sales) you make. You are entitled to claim GST credits for the GST included in the price of purchases you use to make taxable supplies.

You make a taxable supply if you are registered or required to be registered for GST and:

- you make the supply for consideration
- you make the supply in the course or furtherance of a business (enterprise) you carry on, and
- the supply is connected to Australia.

However, the supply is not taxable to the extent it is either GST-free or input taxed.

Taxable value
This is the value of fringe benefits that you use as a basis for calculating your FBT liability. There are different rules for calculating the taxable value of the different types of fringe benefits

Type 1 gross-up rate
The type 1 gross-up rate is used where an employer (or other provider) is entitled to claim a GST (input tax) credit.

The rate is 2.0647.

Prior to the FBT year commencing 1 April 2006, the type 1 gross-up rate was 2.1292.

Type 2 gross-up rate
The type 2 gross-up rate is used where an employer (or other provider) is not entitled to claim a GST (input tax) credit.

The rate is 1.8692.

Prior to the FBT year commencing 1 April 2006, the type 2 gross-up rate was 1.9417.

Usual place of residence
An employee is regarded as living away from their usual place of residence if they are required to do so in order to perform their employment-related duties and could have continued to live at the former place if they did not have to work temporarily in a different locality.

Whether a place is an employee's usual place of residence is a question of fact, based on all the circumstances.

INDEX

D

E

F

M

N

O

P

Q

R

S

T

MORE INFORMATION

INTERNET

- Visit **www.ato.gov.au** – download publications, rulings and other general tax information for small business.
- Business Entry Point: **www.business.gov.au** – this is an interactive service providing easy access to business information and transactions with government. It can be used to register for an ABN and GST, or to apply for a tax file number.

PHONE

- General **business** enquiries phone **13 28 66** – most small business tax issues, including GST rulings, ABN, pay as you go (PAYG) instalments, deductions from employees' wages, business deductions, preparation of activity statements, account information for activity statement lodgment and payment, wine equalisation tax, luxury car tax, fringe benefits tax and issues for non-profit organisations.
- **Superannuation** enquiries phone **13 10 20**.
- **Personal** enquiries phone **13 28 61** – individual income tax and general personal enquiries.

FAX

- Get information faxed to you about business and individual taxes, superannuation and the Higher Education Loan Programme (HELP). Phone **13 28 60** and follow the instructions to order information to be faxed to you.

FREE SEMINARS

- **Seminars for small business** – these include sessions on GST, PAYG, activity statements and record keeping.
  For more information, visit our website at **www.ato.gov.au** or phone **1300 661 104**.

OTHER SERVICES

- If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.
- If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech Relay Service on **1300 555 727**.