Australian Government
Australian Taxation Office

Fringe benefits tax - a guide for employers

This document has changed over time. View its history.

section40-67 history

	Date	Version
	30 March 1997	Original document
	13 December 2013	Updated document
You are here →	1 July 2014	Current document

Chapters 1 and 2 have been updated. See the *Changes and update* sections in the relevant chapters for details.

Introduction

Here you will find:

- a list of chapters that comprise the guide with links to each
- the definition of key terms used throughout the guide
- the primary fringe benefits tax (FBT) legislative references referred to throughout the guide.

A table of any major changes and updates made at each review can be found within each chapter.

Definition of key terms

A-K

A

Activity statement

Used to report your business tax entitlements and obligations, including FBT instalments, goods and services tax (GST), pay as you go (PAYG) instalments and withheld amounts.

Aggregate non-exempt amount

The amount that exceeds the capping threshold of the grossed-up taxable value of benefits provided to employees.

All-day parking

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.

Associate

People and entities closely associated with you - such as relatives, or closely connected companies or trusts. A formal definition is contained in section 318 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 it is either:

- not at your premises, and the employee is allowed to use it for private purposes
- 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.

B

Base value

The base value of a car owned includes:

- the original cost price paid
- the cost of any fitted non-business accessories
- dealer delivery charges, **excluding** registration and stamp duty charges.

The base value of a car leased to an employer 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

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 either:

- a fringe benefit provided by way of a loan
- a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

Benefit

Includes any right, privilege, service or facility.

Business premises

Premises, or part of premises, that are used, in whole or in part, for the purposes of business operations.

C

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

Is one that, in relation to a particular day, means 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 doesn't 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.

Cost price

Generally, the expenditure incurred by you or the lessor for the acquisition or delivery of the car. Usually, this is the purchase price that has been paid, although there may be arrangements in place that have an impact on the cost price.

For example, where an employee provides a trade-in, the cost price would be the purchase price minus the trade-in.

Alternatively, where:

- the transaction involves a payment by another person directly to a car dealer, the cost price would normally be the net amount you actually pay
- an employee pays an amount directly to you, you will need to look at the terms of any agreements and contracts in place to determine whether this payment is an employee contribution or not.

D

Declaration

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 of Taxation. The approved wording and information to be contained in these employee declarations are included throughout the guide.

Declaration date

The date an employer is required to lodge their FBT return (21 May) for the FBT year, or such later date as the Commissioner of Taxation allows.

E

Employee

Means a:

- current employee
- future employee, or
- 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

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 by providing fringe benefits are income tax deductible).

Excluded fringe benefits

Benefits that are excluded from the reportable fringe benefits arrangements. They are still taxable benefits.

Exempt benefits

Benefits that are not considered to be fringe benefits and, therefore, are not subject to FBT.

F

FBT year

Runs from 1 April to 31 March.

Fringe benefit

Benefit provided to an employee (or their associate, such as a family member) in respect of employment. Benefits can be provided by you, your associate or by a third party under an arrangement with you. An employee can be a current, future or former employee.

G

Goods and services tax

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.

Grossing up

Increasing the taxable value of benefits you provide to reflect the gross salary employees would have to earn at the highest marginal tax rate (including Medicare levy) to buy the benefits after paying tax.

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 purchases 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).

I

Income tax exempt charity

A charity that has been endorsed by the Australian Taxation Office (ATO) as exempt from income tax.

Individual fringe benefits amount

Total taxable 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.

L-Z

L

Log book year

A year is a log book year if either:

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

M

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 either:

- entertainment by way of food or drink
- accommodation or travel in connection with, or to facilitate the provision of, such entertainment
- the payment or reimbursement of expenses incurred in obtaining something covered by the above.

N

Notional tax amount

The amount on which FBT instalments are based. Generally, this is the amount of tax assessed for the last return lodged.

O

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

Also known as the log book 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

The taxable value of a benefit may be reduced by the amount that 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.

P

Place of residence

A place where a person lives or has sleeping accommodation. It doesn't matter whether it is on a permanent or temporary basis. It also doesn't matter whether the person shares the place with someone else.

Primary place of employment

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.

Q

Quasi-fringe benefits

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)
- 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.

R

Rebatable employer

Certain non-government, non-profit organisations. Those that may qualify for an FBT rebate include:

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

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, and 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, and at least 100 kilometres from a town with a census population of 130,000 or more.

Where the shortest practical surface route between a locality and an eligible urban area includes a route by water, the distance travelled by water is doubled for the purposes of working out how remote that locality is from the eligible urban area.

Where the circumstances warrant it, the Commissioner of Taxation 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 $2,000 to an employee in an FBT year, you must report the grossed-up taxable value on the employee's payment summary. These are called reportable fringe benefits.

Before 1 April 2007, the reporting exclusion threshold was $1,000.

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

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 doesn't fit into one of the other 12 categories of fringe benefits.

S

Salary sacrifice arrangement

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.

Small business entity

An entity that carries on a business and satisfies the annual turnover test of $2 million. A formal definition is contained in section 328-110 of the *Income Tax Assessment Act 1997*.

Statutory formula method

The statutory formula method for car fringe benefits is based on applying a statutory percentage to the car's base value.

Statutory interest rate

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 either:

- a fringe benefit provided by way of a loan
- 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.

For all car fringe benefits provided after 7.30pm AEST on 10 May 2011 (except where there is a pre-existing commitment in place to provide a car) a flat statutory rate of 20% applies.

For car fringe benefits provided prior to 7.30pm AEST on 10 May 2011, or where you have a pre-existing commitment in place to provide the car after this time, the statutory percentage varies according to the total number of kilometres travelled by the car during the FBT year.

T

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 of furtherance of a business (enterprise) you carry on
- 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

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

Used where an employer (or other provider) is entitled to claim a GST (input tax) credit.

The rate for the FBT year commencing 1 April 2013 is **2.0647**.

For the FBT year commencing 1 April 2014 the type 1 gross-up rate will be **2.0802**.

Type 2 gross-up rate

Used where an employer (or other provider) is not entitled to claim a GST (input tax) credit.

The rate for the FBT year commencing 1 April 2013 is **1.8692**.

For the FBT year commencing 1 April 2014 the type 2 gross-up rate will be **1.8868**.

(Prior to the FBT year commencing 1 April 2006, the type 2 gross-up rate was **1.9417**.)

U

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.

Primary legislative references

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

1. Fringe Benefits Tax Assessment Act 1986: establishes the rules for assessing and collecting the tax. Most of the information in the guide relates to the legislation contained in this Act. The Act is quite separate from the income tax assessment acts.
2. Fringe Benefits Tax Act 1986: imposes tax on the taxable value of fringe benefits. Any change to the rate of tax is effected by amending this Act.
3. Fringe Benefits Tax (Application to the Commonwealth) Act 1986: ensures that the FBT legislation also applies to Australian Government authorities and departments.
4. *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. This Act is available on the ComLaw website.

Last Modified: July 2014

Chapter 1 - What is fringe benefits tax

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 is 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 the way of free tickets to concerts
- reimburses an expense incurred by an employee, such as school fees
- 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 person 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. Therefore, reimbursement is 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, therefore, is not a fringe benefit.

To simplify the explanations in this guide, 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.

You will be an employer for FBT purposes if you make a payment to an employee, company director or office holder that is subject to withholding obligations. Following changes to income tax legislation, these withholding obligations may apply to payments made to an Australian resident employee working overseas.

If you are an international organisation and provide benefits to employees in Australia, these benefits may be subject to FBT in Australia (keeping in mind that Australia has comprehensive double tax agreements with the United Kingdom and New Zealand which currently include FBT).

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

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.

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

You may claim an income tax deduction for the cost of providing fringe benefits and for 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 cars or other vehicles owned or leased by the business available to employees for private use, including a car garaged at the employee's place of residence?
- 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
- is garaged at their place of residence, 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. We publish this rate 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 don't 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
- 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
- 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 don't 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
- 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
- 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 don't 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. For details of these exemptions, refer to Fringe benefits tax exempt benefits.

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. The concessions relevant to each type of benefit are listed in the respective chapters of this guide, or you can refer to Reductions in fringe benefit taxable value.

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 don't reimburse. Contribution of services as an employee is not considered an employee contribution for FBT purposes.

Important points to note about employee contributions are:

- the employee contribution must be paid out of the employee's after-tax income
- an employee contribution towards a particular fringe benefit can't 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, to a mechanic for the servicing of a car) is not assessable to you
- an employee contribution (other than a contribution of services as an employee) may be treated as consideration for a taxable supply for goods and services tax (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

- 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. These include the following.

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 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. This exemption extends to relatives of employees.

Superannuation

The following are not fringe benefits:

- 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 foreign superannuation fund for superannuation benefits for an employee where the employee is a temporary resident when the contribution is made
- 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.

Employment termination payments

Employment termination payments are not fringe benefits. Broadly, employment termination payments are payments made as a result of terminating the employment of an employee (for example, a lump sum paid on retirement).



Property you transfer to an employee in relation to terminating their employment is an employment 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.

First home saver account (FHSA) payments

The following are not fringe benefits:

- reimbursements you make to an employee for their personal FHSA contribution
- contributions you make to an FHSA for an employee.

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 $2,000 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**.



Before 1 April 2007, the fringe benefits reporting exclusion threshold was $1,000.

Find out more

Reportable fringe benefits.

1.9 What are the GST consequences of providing 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.

Find out more

On calculating FBT payable, refer to Calculating fringe benefits tax.

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 - refer to Housing fringe benefits) is the price of that supply. Therefore, 1/11th 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 don't 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 2014, a hardware retailer provides their employee, Derek, with a car benefit. The FBT value of the benefit is $7,000. Derek pays $5,500 to his employer on 15 April 2013, and $1,000

in petrol costs and $500 car insurance during the year ending 31 March 2014. 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 benefits?

The cost you incur in providing either a fringe benefit or exempt benefit is usually an allowable income tax deduction. However, the income tax legislation specifically prevents some benefits from being deductible. Entertainment expenses are the main exception to the tax deductibility rule and are generally not an allowable income tax deduction. For more about entertainment and tax deductibility, refer to section **14.15** of Fringe benefits tax and entertainment.

You would also 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
- 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 wages 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 employees 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 and 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 could otherwise have been paid as salary. The types of benefits employers generally provide 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 payments, property or residual benefits arising from the provision of certain work-related items are commonly provided in salary sacrifice arrangements. For more on the provision of certain work-related items exemption, refer to section **20.8** of Fringe benefits tax exempt benefits.

Donations made under salary sacrifice arrangements

The government has amended the FBT law from 1 April 2008 to ensure that donations made to a deductible gift recipient (DGR) under salary sacrificing arrangements don't result in employers incurring an FBT liability.

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 that 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 $2,000 (that is, the equivalent grossed-up taxable value of $3,738), 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 $2,000, 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 don't 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. However, the total will be used to calculate a number of income tests relating to government benefits and obligations.



Before 1 April 2007, the reporting exclusion threshold was $1,000.

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.

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.

Note: This example uses the FBT, Medicare Levy and Income Tax rates that applied for the 2014 FBT and Income Tax years.

From 1 April 2014 the FBT rate is 47% and and the type 1 gross-up rate is 2.0802. From 1 July 2014 the Medicare Levy rate is 2%,

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	X 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	X 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	X 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		$NIL	$3,850

	(paid for out of employee's income after tax has been deducted)		
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.

	Salary only **(no packaging)**	**Salary + car** **(*without* employee contributions)**	**Salary + car** **(*with* employee contributions)**
Annual remuneration	$65,000.00	$65,000.00	$65,000.00
Less salary sacrifice amount (SSA)	$NIL	$14,205.00	$7,009.00
Taxable income	$65,000.00	$50,795.00	$57,991.00
Less income tax (rates as at 1/7/14)	$12,672.00	$8,055.08	$10,394.08
Less 1.5% Medicare levy	$975.00	$761.92	$869.86
Income after tax and SSA	$51,353.00	$41,977.70	$46,727.06
Employee contribution *(paid for out of employee's income after tax has been deducted)*			$3,850.00
Less car expenses	**$11,500**	**NIL**	**NIL**
Net disposable income	**$39,853.00**	**$41,977.70**	**$42,877.06**
Reportable fringe benefits amount for employee payment summary	$NIL	$7,196 (*car fringe benefit of* $3,850 x 1.8692)	$NIL

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.

Find out more

Reportable fringe benefits.

More information

For more information, you can refer to:

- Miscellaneous Taxation Ruling MT 2050 - *Fringe benefits tax: payment of a recipients contribution by journal entry*
- Taxation Ruling
  - TR 2007/12 - *Fringe benefits tax: minor benefits*
  - TR 2001/10 - *Income tax: fringe benefits tax and superannuation guarantee: salary sacrifice arrangements*.

Changes and updates

The electronic version of the guide is reviewed on a quarterly basis. The following tables detail any major

changes and updates made to this chapter at each review.

2010 calendar year

Quarter 1

Section	Changes and updates
1.3 Are you providing fringe benefits?	Expanded first item in checklist for clarity.
1.4 Types of fringe benefits	Under 'Car fringe benefit', amended last dot point for clarity.
1.7 What is not subject to FBT?	Updated the first paragraph to clarify that the most common exclusions are outlined. Changed terminology from 'Eligible termination payment' to 'Employment termination payment'. Included addition of information about 'First home saver account' payments.
1.8 Reportable fringe benefits	Updated to reflect a change in the reporting exclusion threshold.
1.11 Salary sacrifice	Under 'What type of benefits' can be included in a salary sacrifice arrangement, updated 'Exempt benefits' information regarding provision of certain work-related items. Included information about announced exemption for donations made under a salary sacrifice arrangement. Under 'What are the implications of an effective salary sacrifice arrangement for employers?', updated information in attention box to reflect change to reportable fringe benefits threshold. Under 'What are the implications of an effective salary sacrifice arrangement for employees?', updated reportable fringe benefits information to reflect change to reportable fringe benefits threshold. Example updated for the 2013-14 year.
More information	Removed reference to *Salary sacrifice arrangements for employees* and included reference to Taxation Ruling TR 2007/12. Removal of reference to the addendum for TR 2001/10 as the hyperlink is to the consolidated version of the ruling.

Quarter 2

Section	Changes and updates
1.2 Who pays the tax?	Updated to take into account changes to section 23AG of the *Income Tax Assessment Act 1936*.

Quarter 3

Section	Changes and updates
	Nil.

2014 calendar year

Quarter 1

Section	Changes and updates
11. Salary sacrifice	Amended to show reference to new FBT rate and gross-up rate effective from 1 April 2014.

Last Modified: July 2014

Chapter 2 - Calculating fringe benefits tax

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).

We do not usually notify you (the employer) of how much fringe benefits tax (FBT) you have to pay. Rather, you self-assess your FBT payable. For more on FBT assessments, refer to section **3.3** of How fringe benefits tax works.

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 we will advise you of the rate each year. The rate for the FBT year commencing 1 April 2013 is **46.5%**.

For the FBT year commencing 1 April 2014 (and subsequent years), the FBT rate will be **47%**.

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 goods and services tax (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 (refer to section **2.11**) is used where you (or other benefit providers) are entitled to a GST credit for GST paid on benefits provided to an employee. These benefits are known as GST-creditable benefits (refer to section **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 (refer to section **2.11**).

You use the lower gross-up rate to calculate an employee's reportable fringe benefits amount (refer to section **5.4** of Reportable fringe benefits).

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 section **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 their private use. The employer received a tax invoice when they 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 (refer to section **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 can't 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
- 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 don't have to be reported on payment summaries. For a list of these benefits, refer to section **5.2** of Reportable fringe 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** (refer to section **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** (refer to section **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 (refer to section **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:

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

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%.

For the FBT year commencing 1 April 2014 (and subsequent years), the FBT rate will be **47%**, resulting in a

higher FBT gross-up rate of 2.0802.

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 (refer to section **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:

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

The type 2 FBT gross-up formula results in a gross-up rate of **1.8692** where the FBT rate is 46.5%.



For the FBT year commencing 1 April 2014 (and subsequent years), the FBT rate will be **47%**, resulting in a type 2 FBT gross-up rate of 1.8868.

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:

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

plus

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

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 x 2.0647

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

Plus

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

= $9,000 x 1.8692

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

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

Note: This example uses the FBT and gross up rates that applied for the FBT year commencing 1 April 2013.

2.12 Calculating the FBT payable

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

Example:

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

The FBT rate for the FBT year commencing 2013 is 46.5%. The FBT rate for the FBT year commencing 1 April 2014 is 47%.

Find out more
An explanation of how to calculate FBT if you are a non-profit organisation, refer to Non-profit organisations and fringe benefits tax

More information

For more information, refer to Miscellaneous Taxation Ruling MT 2050 - *Fringe benefits tax: payment of recipients contribution by journal entry*.

Changes and updates

The electronic version of the guide is reviewed on a quarterly basis. The following tables detail any major changes and updates made to this chapter at each review.

2014 calendar year

Quarter 1

Section	Changes and updates
	Nil.

Quarter 2

Section	Changes and updates

2.2	Alert for FBT rate change from 1 April 2014
2.10	Alert for gross up rate change from 1 April 2014
2.11	Alert for FBT rate change from 1 April 2014

Quarter 3

Section	Changes and updates

Last Modified: July 2014

Chapter 3 - How FBT works

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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 *Fringe benefits tax - application to register* (NAT 1055) and send it to the ATO.

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 don't 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 ATO by 21 May each year, unless you have made an arrangement with us for an extension of time to lodge, or you lodge via a tax agent who has been given another lodgment date. Any returns that we receive later than the first business day after 21 May, without prior arrangement, may incur an administrative penalty.

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 us via the electronic lodgment service (ELS), in the same way they lodge income tax returns electronically. If you are lodging a paper return, mail you're completed and **signed** return to:

Australian Taxation Office

GPO Box 9845

IN YOUR CAPITAL CITY

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 *Fringe benefits tax - notice of non-lodgment* (NAT 3094) and send it to:

Australian Taxation Office

PO Box 3006

PENRITH NSW 2740

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.

Request for deferral of time to lodge

If you prepare and lodge your own return and need additional time, phone us before the due date on **13 11 42** between 8am and 6pm, Monday to Friday.

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 don't 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 don't 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 3004

PENRITH NSW 2740

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
- the FBT year the mistake relates to
- 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
- the amended taxable value.

The Commissioner may amend an FBT assessment if:

- you don't disclose benefits or wrongly valued benefits
- 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 2008 to 31 March 2009, 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.

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
- 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). Therefore, the amount payable is $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.) Therefore, the

amount payable is $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 estimating 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 that 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 you have made other arrangements with us.



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

We offer several different payment methods.

BPAY

BPAY allows you to transfer funds electronically from your cheque or savings accounts to the ATO using your financial institution's phone or internet banking service.

Quote:

- the ATO biller code (75556), and
- your payment reference number (PRN) as shown on the front of the payment slip.

We recommend you check processing deadlines with your financial institution to ensure your payments reach us on or before the due date.

Direct credit

You can make your payments by direct credit if you have:

- a desktop computer banking software package, or
- access to a 'third party/pay anyone' option through your internet banking facility.

Send payments from a cheque or savings account to our direct credit account:

- BSB - 093 003
- Account - 316 385.

You must enter your PRN (as shown on the front of the payment slip) in the lodgment reference field.

Mail payments

You can send a cheque or money order to the address printed on your payment slip forwarded by the ATO. If you don't have a payment slip, supply the following details:

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

Cheques and money orders must not be post-dated and must be:

- payable to the 'Deputy Commissioner of Taxation'
- crossed 'Not negotiable', and
- tendered in Australian dollars.

Send your payment to either:

WA, SA, NT, TAS and VIC clients:

Australian Taxation Office

Locked Bag 1936

ALBURY NSW 1936

ACT, NSW and QLD clients:

Australian Taxation Office

Locked Bag 1793

PENRITH NSW 1793

You must allow sufficient time for your payment to reach us on or before the due date. Late payments may be subject to the general interest charge.

Post office payments

If you have a pre-printed payment slip with a barcode, you can pay in person at any Australia Post outlet. Photocopies of payment slips are not accepted. A receipt is issued for any payment you make in person at a post office. You can make payments with:

- cash (a $3,000 limit applies)
- money orders
- cheques
- EFTPOS (available at most Australia Post outlets).

If you use EFTPOS, you can only make payments (up to your daily withdrawal limit) using savings or cheque accounts.

Please don't present returns at post offices or licensed agencies.

More information

For more information about BPAY, direct credit payments, mail payments or paying in person at an Australia Post outlet, phone **1800 815 886**.

Payment difficulties

If you can't 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

We recommend you use our objection forms. If you wish to prepare your own document, 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 our 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

We issue 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 ATO 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 the 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.

More information

- Law Administration Practice Statement PS LA 2008/3 - Provision of advice and guidance by the Tax Office
- How to lodge an objection

Changes and updates

The electronic version of the guide is reviewed on a quarterly basis. The following table details any major changes and updates made to this chapter at each review.

Section	Changes and updates
3.2 Annual return	Updated addresses and included the phone number to call for requests for deferral of time to lodge.
3.4 Amendments	Address to send amendments updated. Information that needs to be provided in an amendment request updated.
3.5 Paying FBT	Under 'How to pay', updated various payment methods and associated information.
More information	Inclusion of 'More information' at end of chapter.

Last Modified: Wednesday, 24 February 2010

Chapter 4 - Fringe benefits tax record keeping

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

4.1 General record keeping requirements

There is a general requirement that you must keep records that are adequate to enable your fringe benefits tax (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, log books, 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 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 log books, and odometer records
- where the benefit is a car fringe benefit valued under the operating cost method, fleet management records, log book 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 us or, if you don't have to lodge a return, by 21 May. There is no need to notify us of the election or declaration as your business records are sufficient evidence of this.

4.2 Log book records and odometer records

Log book and odometer records are kept when you use:

- the operating cost method to calculate the taxable value of a car fringe benefit (refer to section **7.5** of Car fringe benefits)
- the first method for employee cars when applying the 'otherwise deductible' rule (refer to section **21.1** of Employee cars - applying the 'otherwise deductible' rule).

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

A log book 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 section **7.8** of Car fringe benefits.

Log book 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 log book 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, registration number and percentage of business use as part of your business records.

Information to be recorded in log book records

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

- the dates on which the journey began and ended
- the odometer readings at the start and end of each journey
- the kilometres travelled
- the purpose of the journey.

When recording the purpose of the journey, an entry stating 'business' or 'miscellaneous business' will not be enough. Your entry should sufficiently describe the purpose of the journey so that it can be classified as a business journey.

Your log book 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 log book. 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 log book is kept must be specified. This continuous period may overlap two tax years. You can keep your log book 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 log book.

Sample car log book record

Here is a sample record from a log book:

Employer name:				**FBT year ended 31 March 2009**		
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*	
06/06/2008	06/06/2008	118,500km	118,570km	70km	0km	Visit mechanic, ATO
07/06/2008	07/06/2008	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 log book per car.

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 log book is kept.

As with log books, we don't 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 log book period) and also for the end of each period:

- the date the period began, or ended
- 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 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 2009**			
Car Make	Model	Registration number	Start		End	
			Date	Odometer reading	Date	Odometer reading
Holden	Commodore	AAA 999	01/04/2008	116,000km	31.03.2009	126,000km

An odometer record can be used for more than one car. Don't add together the kilometres

travelled by the old and new cars.

4.3 Living away from home allowances and benefits

You and your employee must meet certain record-keeping requirements for the relevant living away from home concessions to apply if you provide your employee with:

- a living-away-from-home allowance (refer to chapter 11)
- food because their employment duties require them to live away from home (refer to section **19.4** of Reductions in fringe benefit taxable value)
- accommodation because their duties of employment require them to live away from home (refer to section **20.4** of Fringe benefits tax exempt benefits).

Substantiating exempt accommodation and exempt food components

Employee living away from home from 1 October 2012

To reduce your FBT liability on the living-away-from-home allowance by any exempt accommodation component and any exempt food component, your employee must meet certain substantiation requirements:

- Your employee must substantiate the accommodation expenses incurred while living away from home **in full**.
- Your employee only needs to substantiate food or drink expenses if the expenses incurred while living away from home exceed an amount the Commissioner considers reasonable - if so, your employee needs to substantiate the full amount of the expenses incurred, not just the excess amount.

The Commissioner issues advice specifying reasonable amounts for food or drink expenses in an annual Taxation Determination.

Your employee satisfies the substantiation requirements if they give you, before the declaration date for the relevant FBT year, either:

- documentary evidence of the expense - that is, either the actual receipt or other evidence as appropriate (for example, receipts, tax invoices, credit card or bank statements), or a copy of these documents, or
- an appropriate declaration in a form approved by the Commissioner setting out information about the expense.

If your employee gives you an appropriate declaration, they must retain the relevant documents to substantiate the expense incurred for a period of five years from the declaration date. However, this is not required if your employee gives you the documentary evidence of the expense - in that situation, you must keep the evidence for five years.

Employee living away from home before 1 October 2012

If you pay a living-away-from-home allowance because your employee is living away from home before 1 October 2012, your employee (other than those working on a fly-in fly-out arrangements) must give you a living-away-from-home declaration in the approved form to reduce your FBT liability by any exempt accommodation component and any exempt food component.

For copies of these approved forms, including an explanation when each should be used, refer to Declarations.

Declaration about living away from home from 1 October 2012

Your employee must give you an appropriate declaration about living away from home in the approved form if any of the following apply:

- They maintain a home in Australia at which they usually reside and the fringe benefit relates to the first 12 month period.

- The transitional rules apply and they are not required to maintain a home in Australia and/or the 12 month period does not apply.
- They work on a fly-in fly-out or drive-in drive-out basis.

For copies of these approved forms, including an explanation when each should be used, refer to Declarations

You must obtain all employee declarations no later than the day on which your FBT return is due to be lodged with us or, if you don't have to lodge a return, by 21 May.

4.4 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 more than five 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)
- you provide the benefit for travel outside Australia for more than five consecutive nights.

In determining whether a travel diary needs to be kept, you need to look at the number of nights the employee is away from home. The number of nights away from home includes transit time.

Example: travel more than five consecutive nights

An employee lives in Brisbane and travels to Hawaii for work purposes. The employee's flight to Hawaii departs from Sydney. The employee leaves their home in Brisbane on 2 April, flies to Sydney, and departs for Hawaii on 3 April. The employee returns directly to Brisbane on 8 April. The employee is away from their home for six nights in total and would need to keep a travel diary.

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.

If the provision of the expense payment or residual benefit is subject to a consistently enforced prohibition on private use and would result in a taxable value of nil, the requirement to obtain a travel diary will be waived. In such instances, you will then be able to make an annual no private use declaration stating that the benefit which was provided was only for employment related purposes and there was no private portion.

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

- airline transport (refer to Airline transport fringe benefits)
- expense payments (refer to Expense payment fringe benefits)
- property (refer to Property fringe benefits)
- residual (refer to Residual fringe benefits).

4.5 Reportable fringe benefits

If you provide fringe benefits with a total taxable value of more than $2,000 to an employee in an FBT year, you must report the grossed-up taxable value of 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.

Before 1 April 2007, the fringe benefits reporting exclusion threshold was $1,000.

For more information, refer to 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 don't 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 complete a new payment summary, marking the **amending a payment summary** box.

When you complete amended payment summaries, you must:

- complete all payee, payment and payer information on each amended payment summary
- send it to us
- give a copy to the payee.

If the employee has already lodged their tax return, they should request an amendment to their reportable fringe benefits amount.

If the change alters the amount of your FBT payable, you also need to request an amendment to your FBT return (refer to section **3.4** of How fringe benefits tax works).

4.6 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 that 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
- 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
- any other paper source documents produced or received in the course of carrying on a business.

You don't have to keep original paper records once they have been scanned onto an electronic storage medium.

Internet and electronic data interchange

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 on electronic records, refer to Taxation Ruling TR 2005/9 - Income tax: record keeping - electronic records.

4.7 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 (refer to Reportable fringe benefits).

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, refer to section **2.10** of Calculating fringe benefits tax) 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 2003	$5,747
31 March 2004	$5,919
31 March 2005	$6,084
31 March 2006	$6,223
31 March 2007	$6,391
31 March 2008	$6,614
31 March 2009	$6,766
31 March 2010	$7,063
31 March 2011	$7,190
31 March 2012	$7,391
31 March 2013	$7,642

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 (refer to section **7.4** of Car fringe benefits) 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 (refer to section **7.5** of Car fringe benefits), 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.

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

4.8 Employee declarations

It is not necessary for you to send employee declarations to us. However, you should keep them as part of your tax records. These declarations must 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, or by referring to Declarations.

4.9 Electronic declarations

You can receive employee declarations electronically. However, the declaration still must be signed by the employee using an electronic signature.

This means that employees can provide employee declarations to you, in the format approved by the Commissioner, electronically with their electronic signature if:

- you consented to the method of electronic signature
- the electronic declaration is readily accessible and understandable, and convertible into written English, in order to determine your FBT liability.

Format of declaration and form of electronic signature

The electronic declaration must contain the same information as is required for approved paper declarations.

The electronic declaration must be provided using a secure system, and in a way that clearly identifies the employee and indicates their approval of the information being provided. A secure system could be a system that requires a personal identification number, access code or password to use.

Example: electronic declaration provided from work email address

An employer agrees to an employee declaration being provided to them electronically in the body of an email or as an attachment to an email. This is an acceptable method of receiving the declaration where:

- the employees have work email addresses that are password protected
- the employee's name appears either in the 'From' line or in the body of the email, or both, as the method for identifying the person and indicating the person's approval of the information communicated.

Example: electronic declaration provided through payroll system

An employer has an electronic form available through their payroll system that allows employees to provide the same information as required by paper declarations. This is an acceptable method of receiving employee declarations where:

- the employer agrees to employees providing electronic declarations through this system
- in order to complete the form, employees must log on to their account using a password
- completion of the form is linked to the employee's user identification or their name, as the method for identifying the person and indicating their approval of the information communicated.

Example: electronic declaration provided from employee's home email address

An employer agrees to an employee providing their employee declaration from their home email address. This would be an acceptable method of receiving an employee declaration where the employer is satisfied that the declaration was provided by the employee, using a secure system.

Example: electronic declaration provided on behalf of another employee using their work email address

An employer has an email system that allows employees to action emails on behalf of other employees. Pam Smith, an employee, is given permission by her manager Jim Jones, to action emails on Jim's behalf while Jim is on leave. The 'From' line of emails actioned for Jim appears as 'Pam Smith on behalf of Jim Jones'. An employee declaration received via email with the 'From' line 'Pam Smith on behalf of Jim Jones' would **not** be acceptable because it doesn't contain the employee's approval of the information communicated.

More information

- How to complete the PAYG payment summary - individual non-business form

- Taxation Ruling
  - TR 2005/9 - Income tax: record keeping - electronic records.
  - TR 96/7 - Income tax: record keeping - section 262A - general principles.
- Taxation Determination
  - TD 2013/4 - Fringe benefits tax: reasonable amounts under section 31G of the *Fringe Benefits Tax Assessment Act 1986* for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit, for the fringe benefits tax year commencing on 1 April 2013
  - TD 2012/3 - Fringe benefits tax: for the purposes of section 135C of the *Fringe Benefits Tax Assessment Act 1986*, what is the exemption threshold for the fringe benefits tax year commencing on 1 April 2012?
  - TD 2009/9 - Fringe benefits tax: for the purposes of section 135C of the *Fringe Benefits Tax Assessment Act 1986*, what is the exemption threshold for the fringe benefits tax year commencing on 1 April 2011?
- Law Administration Practice Statement PS LA 2002/7 - Amendment of an employer's fringe benefits tax assessment that requires an adjustment to a previously advised reportable fringe benefits amount.

Changes and updates

The following tables detail any major changes and updates made to this chapter.

June 2012

Section	Changes and updates
4.7 Record keeping exemption	Most recent exemption thresholds included under

arrangements	heading 'The base year'. Removed reference to older exemption thresholds.
More information	Most recent tax determinations included. Removed reference to older tax determinations.

March 2013

Section	Changes and updates
4.3 Living away from home allowances and benefits New information included as a result of law changes.	Renumbered sections as a result of this insertion.

Last Modified: Thursday, 27 May 2013

Chapter 5 - Reportable fringe benefits

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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 $2,000 in a fringe benefits tax (FBT) year (1 April to 31 March), you will be required to record the grossed-up taxable value of those benefits on your employee's 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.

Before 1 April 2007, the fringe benefits reporting exclusion threshold was $1,000.

5.1 Benefits included in the reporting requirements

The value of all fringe benefits other than excluded fringe benefits (refer to section **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 (refer to section **20.5** of Fringe benefits tax exempt benefits). 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 (refer to Fringe benefits tax exempt benefits) 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 - refer to section **9.9** of Expense payment fringe benefits).
- 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 section **19.2** of Reductions in fringe benefit taxable value.
- Remote area housing assistance where the value of the benefit is reduced in accordance with the conditions in section **19.2** of Reductions in fringe benefit taxable value.
- Remote area home ownership schemes where the value of the benefit is reduced in accordance with the conditions in section **19.2** of Reductions in fringe benefit taxable value.
- Remote area home repurchase schemes where the value of the benefit is reduced in accordance with the conditions in section **19.2** of Reductions in fringe benefit taxable value.
- Costs of occasional travel (being that which occurs from time to time and not at regular intervals) 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.
- 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.
- Certain car benefits arising from travel between home and work by police officers, ambulance officers and fire fighters using marked emergency vehicles.
- From 1 April 2007, car benefits arising from an employee's private use of pooled or shared cars.

Pooled or shared cars

In order for the benefit to be an excluded benefit:

- the benefit provided to the employee must be either a car fringe benefit or an exempt car benefit
- there must be an additional use of the same car during the year which gives rise to a car fringe benefit or a exempt car benefit for a different employee, and
- the employer must direct, or consent to, the use of the car by each employee.

In these circumstances, the car will be a 'pooled or shared car' during the FBT year and the reporting exclusion will apply to an employee's use of that car.



The use of a car can vary from year to year and accordingly the legislation requires that the conditions for the reporting exclusion for pooled or shared cars must be determined and met for each car and FBT year.

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 $2,000 or less, you do not have to report an amount on the employee's payment summary.

Before 1 April 2007, the fringe benefits reporting exclusion threshold was $1,000.

If an employee's individual fringe benefits amount is more than $2,000, 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 (refer to section **2.11** of Calculating fringe benefits tax).

Example: grossing-up amount for payment summary reporting

The total value of benefits provided to an employee is $3,500. The rate of tax is 46.5%. The value of reportable fringe benefits is calculated as follows:

$$\frac{\$3,500}{(1 - 0.465)}$$

$$= \frac{\$3,500}{0.535 \text{ (or } \$3,500 \times 1.8692)}$$

= $6,542 (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 2008 to 31 March 2009 on the employee's payment summary for the income year 1 July 2008 to 30 June 2009.

Example: working out amounts for payment summaries

Between 1 April 2008 and 31 March 2009 (the 2008-09 FBT year) you provide an employee with:

- a work car, with a taxable value of car fringe benefits totalling $1,440
- holiday accommodation with a taxable value of $600
- a briefcase primarily for use in their employment ($200)
- a mobile phone primarily for use in their employment ($300)
- reimbursement of their Higher Education Loan Program (HELP) debt as well as their spouse's ($550 each).

The total taxable value of fringe benefits for this employee is $3,140. 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 2009.

Reportable fringe benefits amount	=	Individual fringe benefits amount x 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 2009.

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 Program (HELP) and Financial Supplement repayments.
- Child support obligations.
- Entitlement to certain income-tested government benefits.

Example: Medicare levy surcharge

An employee has a taxable income of $40,000 and a reportable fringe benefits total of $40,000. The employee's spouse has a taxable income of $70,000 and a reportable fringe benefits total of $10,000. Therefore, the couple's family income is $160,000. 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 $143,000 ($140,000 plus $1,500 x 2) for the 2008-09 income year. As their family income ($140,000) 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 $800 (1% of $80,000) and the amount payable by the spouse would be $800 (1% of $80,000) for the 2008-09 income year.

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 $7,000, they would have to repay $1,760 (4% of $35,000 + $2,000 + $7,000) for the 2008-09 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 boat 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 - residual fringe benefit

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

The employer could calculate each employee's share as:

$$\frac{\text{Total taxable value}}{}$$

Number of recipients

= $4,500

10

= $450.00

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 2008. Between 1 April 2008 and 15 May 2008 the employee was provided with fringe benefits with a reportable value of $3,738. The reportable amount of $3,738 must be reported on a payment summary for the income year ended 30 June 2009. The employer would have until 14 July 2009 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 2008 to 31 March 2009.

The reportable fringe benefit that must be shown on the payment summary for the income year 1 July 2008 to 30 June 2009 is $19,439, calculated as follows:

$10,400 X 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 complete a new payment summary, marking the **amending a payment summary** box.

When you complete amended payment summaries, you must:

- complete all payee, payment and payer information on each amended payment summary
- send it to us
- give a copy to the payee.

If the employee has already lodged their tax return, they should request an amendment to their reportable fringe

benefits amount.

If the change alters the amount of your FBT payable, you also need to request an amendment to your FBT return (refer to section **3.4** of How fringe benefits tax works).

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 (refer to section **4.6** of Fringe benefits tax record keeping). 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)
- 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
- 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

For more information, refer to:

- 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
- How to complete the PAYG payment summary - individual non-business form.

Changes and updates

The electronic version of the guide is reviewed on a quarterly basis. The following tables detail any major changes and updates made to this chapter at each review.

2010 calendar year

Quarter 1

Section	Changes and updates

Reportable fringe benefits	Updated the information above the heading '5.1 Benefits included in the reporting requirements' to reflect the change in the reporting exclusion threshold.
5.2 Excluded fringe benefits	Addition of information under 'Excluded by subsection 5E(3) of the FBTAA' regarding costs of occasional travel for clarity. Addition of information regarding reporting exclusion for pooled or shared cars.
5.4 Reporting amounts on payment summaries	Updated information to reflect change in reporting exclusion threshold. Updated examples.
5.5 Consequences of having an amount included on a payment summary	Included 'Financial supplement repayments' in the list of government benefits and obligations. Updated examples in line with other products.
5.6 Employee's share	Updated examples.
5.7 What happens when an employee ceases employment and has reportable benefits?	Updated example due to change in reporting exclusion threshold.
5.9 Correcting an amount on a payment summary already issued	Updated information for consistency with *How to complete the PAYG payment summary - individual non-business form*.
More information	Addition of *How to complete the PAYG payment summary - individual non-business*.

Quarter 2

Section	Changes and updates
	Nil.

Quarter 3

Section	Changes and updates
	Nil.

Last Modified: Monday, 21 February 2011

Chapter 6 - Non-profit organisations and FBT

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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. As of 3 December 2012, charities that want to access FBT concessions must be registered with the Australian Charities and Not-for-profits Commission (ACNC) as a charity and endorsed by us.

6.1 Employees, independent contractors or volunteers

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.

Employees

For the purposes of FBT, an employee is a person who receives (or is entitled to receive) salary or wages in return for work or services provided.

If an organisation provides non-cash benefits to employees in lieu of salary and wages, FBT can apply.

Independent contractors

An independent contractor is an entity (such as an individual, partnership, trust or company) that agrees to produce a designated result for an agreed price.

For more information about determining if workers are employees or contractors, refer to How to determine if workers are employees or independent contractors (NAT 2780).

Volunteers

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 don't attract FBT.

6.2 FBT concessions and endorsement

The FBT concessions which specifically apply when the employer is a non-profit organisation are:

- FBT exemption - subject to capping
- FBT rebate
- certain benefits provided by registered religious institutions and non-profit companies
- car parking
- remote area concessions.

For these concessions to apply to a non-profit entity that is a charity, the entity must be registered with the ACNC as a charity (Registered Charity).

Endorsement of a Registered Charity is also required to access:

- FBT exemption for public benevolent institutions
- FBT exemption for health promotion charities
- FBT rebate for Registered Charities

More information

Application for endorsement as a tax concession charity or income tax exempt fund (NAT 10651)

A charity which is registered by the ACNC as a charity is a Registered Charity. The ACNC also registers each Registered Charity in a sub-type according to its charitable purposes. The relevant sub-types for FBT purposes are:

- Registered Health Promotion Charity (charitable institution whose principal activity is to promote the prevention or the control of diseases in human beings)
- Registered Public Benevolent Institution (charitable institution who is a public benevolent institution)
- Registered Religious Institution (charitable institution who is a religious institution)

Where an entity was endorsed for the operation of a public benevolent institution as at 2 December 2012, that operation is now treated by the ACNC as an entity separate to the main entity and as a Registered Public Benevolent Institution, from 3 December 2012.

Registered Charities who are applying for endorsement can indicate on their application form the type of FBT concession and the date from which it applies.

A Registered Charities endorsement details are recorded on the Australian Business Register.

6.3 FBT exemption - subject to capping

Some organisations are exempt from FBT where the total grossed-up value of certain benefits (which are benefits not otherwise exempt) provided to each employee during the FBT year is equal to, or less than, the capping threshold. If the total grossed-up value of fringe benefits provided to an employee is more than that capping threshold, your organisation will need to pay FBT on the excess.

Table 1 outlines the types of organisations that are eligible for FBT exemption, the capping thresholds that apply and whether the organisation needs to be endorsed by us to access the FBT exemption.

Table 1: Types of organisations eligible for FBT exemption

Types of organisations eligible for FBT exemption#	Capping threshold##	Does the organisation need to be endorsed by us to access FBT exemption?###
Registered Public benevolent institutions (other than hospitals)	$30,000 per employee	Yes
Registered Health promotion charities	$30,000 per employee	Yes
Public and non-profit hospitals	$17,000 per employee	No
Public ambulance services	$17,000 per employee	No

Notes to table 1

#This table does not include FBT exemptions for Registered Religious Institutions and non-profit companies which exemptions are not subject to capping. For more information on those exemptions see 6.5 Concessions available for religious institutions and 20.5 Religious and non-profit organisation exemptions.

A hospital is an institution where 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 who are rebatable employers (see 6.4 FBT Rebate)

More information

For information about:

Registered Public benevolent institutions (other than hospitals), see Is your organisation a public benevolent institution? (QC 26553).

For information about Registered Health promotion charities, see Is your organisation a health promotion charity? (QC 26552)

The $30,000 capping threshold applies even if the Registered Public Benevolent Institution or Registered Health Promotion Charity did not employ the employee for the full FBT year. For example, if you employed the employee between October and March and the total grossed-up value of benefits provided was $25,000, FBT will not be payable.

If an organisation is a Registered Public Benevolent Institution and a hospital, the $17,000 capping threshold applies. The organisation cannot choose the Registered Public Benevolent Institution exemption cap.

For more information, see Endorsement requirements for charities and income tax exempt funds. A condition of endorsement is that Registered Public Benevolent Institutions and Registered Health Promotion Charities need

to be registered with the ACNC to access the FBT exemption.

It is important to check the notes to table 1 as your organisation may need to meet certain requirements before it can access a concession.

6.4 FBT rebate

The FBT rebate is an entitlement to a rebate equal to 48% of the gross FBT payable, subject to a capping threshold.

Organisations that qualify for an FBT rebate are referred to as 'rebatable employers'.

Rebatable 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 threshold). If the total grossed-up taxable value of fringe benefits provided to an employee is more than $30,000 a rebate cannot be claimed for the FBT liability on the excess amount. The $30,000 capping threshold applies even if the rebatable employer did not employ the employee for the full FBT year. For example, if the total grossed-up value of benefits provided to an employee between October and March was $15,000, a rebate applies to all of the FBT payable for providing these benefits.

Registered Charities must be endorsed by us to access the FBT rebate. The FBT rebate is only available to Registered Charities that are institutions.

The FBT rebate is not available to:

- Registered Charities that are funds.
- Registered Charities that are institutions established by a government law. A government law is a law of the Commonwealth, a State or a Territory. Examples are public universities, public museums and public art galleries.
- Registered Public Benevolent Institutions and Registered Health Promotion Charities - these organisations are eligible for the FBT exemption.

A Registered Charity is an entity who is registered by the ACNC as a charity.

See also below for information about the entitlement to the FBT rebate for some government bodies and charitable funds for 2013 and 2014.

For more information refer to Endorsement to access charity tax concessions.

Other non-profit organisations can self-assess their entitlement to the FBT rebate provided they are a rebatable employer.

Rebatable employers

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

- Registered Charities who are an institution; who are not established under a government law and who are endorsed as a charitable institution for these purposes;
- certain educational, 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
- non-profit organisations established to promote the development of the agricultural, pastoral, horticultural, viticultural, aquacultural, fishing, manufacturing or industrial resources of Australia.

Temporary entitlement to the FBT rebate - some government bodies and charitable funds

Transitional changes to the FBT law as a result of the introduction of the ACNC has meant that Registered Charities that are institutions of the Commonwealth, a State or a Territory and also Registered Charities that are charitable funds may be eligible for the FBT rebate for the period 3 December 2012 to 31 March 2013.

Some entities may also be eligible for the FBT rebate for the period 1 April 2013 to 31 March 2014.

The table below summaries a Registered Charities entitlement to the FBT rebate under these transitional changes to the FBT law.

If..	**Then..**
Your charity is **not** registered with the ACNC	It is **not entitled** to the FBT rebate
Your charity is a Registered Public Benevolent Institution or Registered Health Promotion Charity	It is **not entitled** to the FBT rebate
Your Registered Charity is not endorsed to access the FBT rebate tax concession and is a charitable institution	It is **not entitled** to the FBT rebate
Your Registered Charity is **not** endorsed to access the FBT rebate tax concession and is **not** an institution	• It is entitled to the FBT rebate from 3 December 2012 to 31 March 2013 • From 1 April 2014 it is not entitled to the FBT rebate tax concession
Your Registered Charity is endorsed to access the FBT rebate tax concession, commencing from a date of endorsement which is before 30 June 2013.	• It is entitled to the FBT rebate tax concession from 3 December 2012 (or date of endorsement, whichever is the later) to 31 March 2014, and • From 1 April 2014 it is not entitled to the FBT rebate tax concession where the Commissioner revokes the notice of endorsement.
Your Registered Charity is endorsed to access the FBT rebate tax concession commencing from a date of endorsement which is on or after 30 June 2013	It is entitled to the FBT rebate from the commencement date of the endorsement, provided all of the conditions are met.

Conditions

For both:

- Registered Charities (including new charities) who are endorsed from 30 June 2013 and
- Existing Registered Charities (those who are endorsed before 30 June 2013)

the following conditions to be entitled to the FBT rebate apply from the FBT year commencing 1 April 2014:

- be a Registered Charity
- be endorsed for the income tax exemption
- be an institution
- not be a Registered Public Benevolent Institution
- not be a Registered Health Promotion Charity
- not be an institution of the Commonwealth, a State or a Territory
- endorsed for the FBT rebate by satisfying all of the above 6 conditions

Example:

A university is a charitable institution that has been endorsed as income tax exempt since 2008. On 3 December 2012, the university is deemed to be registered with the ACNC.

The university is an institution of the Commonwealth, a State or a Territory. On 30 September 2013, the university applied for endorsement for the FBT rebate, requesting that it be effective from 3 December 2012, and it was granted endorsement effective from that date.

The university:

- is a charity that is registered with the ACNC that is it is a Registered Charity
- is not a Registered Public Benevolent Institution or a Registered Health Promotion Charity
- is endorsed to access the FBT rebate with effect before 30 June 2013.

As a result, the university is eligible for the FBT rebate for the period:

- 3 December 2012 to 31 March 2013; and
- 1 April 2013 to 31 March 2014.

The university is not eligible for the FBT rebate from 1 April 2014 because it is an institution of the Commonwealth, a State or a Territory. The Commissioner revokes the university's endorsement from that date.

6.5 Concessions available for religious institutions

Your organisation is a religious institution if it is both:

- non-profit
- an Institution to advance or promote religious purposes.

For more information refer to Religious institutions: access to tax concessions.

FBT rebate

Religious institutions are eligible for the FBT rebate when they are a Registered Charity - subject to a capping threshold of $30,000. If a religious institution is a charity it must be registered with the ACNC as a charity and endorsed by us as a charitable institution to access the FBT rebate.

For more information see **6.4** FBT rebate.

Other concessions

Registered Religious Institutions may also be eligible for FBT concessions for benefits they provide to:

- religious practitioners
- live-in carers
- domestic employees.

The religious institution does not need to be endorsed by us to access these concessions, but it must be registered with the ACNC as a charity with a purpose that is the advancement of religion.

For more information refer to **20.5** and also Taxation Ruling TR 92/17 Income tax and fringe benefits tax: exemptions for 'religious institutions'.

6.6 Non-profit companies and live-in residential carers

The following non-profit organisations that provide care for elderly or disadvantaged people, can provide certain FBT exempt benefits to live-in carers:

- a company that is a Registered Charity
- a non-profit company that is not a charity.

The exemption is for live-in carers where the carer resides with the elderly or disadvantaged person in residential accommodation you provide. The benefits that may be exempt include the employees' live-in accommodation, residential fuel, meals or other food and drink.

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

- 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.

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

6.7 Other concessions

Car parking

A car parking fringe benefit and car parking expense payment fringe benefit is exempt from FBT when provided by:

- Registered Charities
- A scientific institution (other than an institution run for the purposes of profit or gain to its shareholders or members)
- A public educational institution.

Remote area concessions

An extended definition of remote applies 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 that is a rebatable employer.
- a Registered Charity
- a public ambulance service
- a police service.

This means that more areas will be considered remote for the purposes of the:

- remote area housing exemption explained at **10.8**
- remote area residential fuel reduction explained at **19.2**

6.8 Calculating FBT - 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, whether or not the employer elected to value the benefits as meal entertainment fringe benefits. This applies to meal entertainment provided by Registered Public Benevolent Institutions, Registered Health Promotion Charities, public hospitals, non-profit hospitals, public ambulance services and rebatable employers.

Entertainment facility leasing expenses

Entertainment facility leasing expenses when incurred by Registered Public Benevolent Institutions, Registered

Health Promotion Charities, public hospitals, non-profit hospitals, public ambulance services and rebatable employers.

Car parking

Car parking fringe benefits when provided by Registered Public Benevolent Institutions, Registered Health Promotion Charities, public hospitals, non-profit hospitals, public ambulance services and rebatable employers.

6.9 Calculating the FBT exemption

Where your organisation (Registered Health Promotion Charity or Registered Public Benevolent Institution or 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 PBI, HPC and rebatable employers calculator will help you calculate your FBT liability. The $30,000 capping threshold only has been considered in the calculator.

You can also use the steps in tables 1 and 2 below to help you calculate the 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. For a list of excluded fringe benefits, refer to Reportable 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 from 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. For a list of excluded fringe benefits, refer to Reportable fringe benefits. Excluded benefits specifically not to be included in this calculation are listed in section **6.8**.	$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 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: Type 1 individual base non-exempt amount X	Individual grossed-up type 1 non-exempt amount

	FBT rate + GST rate (1 - FBT rate) x (1 + GST rate) x FBT rate (that is, the result from step 7 x 2.0647).	
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: Type 2 individual base non-exempt amount X 1 1 - FBT rate (that is, the result from step 9 x 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) • 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 Registered Public Benevolent Institutions and Registered 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 Registered Health Promotion Charity receives the following benefits during an FBT year:		
A 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 Registered 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 Reportable fringe benefits. Excluded benefits specifically not to be included in this calculation are listed in section **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 $1,100 is specifically not included in this calculation.
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 and amount 2 (that is, the result from step 2 plus step 5).	$7,700 + $0 = **$7,700** The type 1 individual base non-exempt amount is $7,700.

8	Use the following formula: Type 1 individual base non-exempt amount X FBT rate + GST rate (1 - FBT rate) x (1 + GST rate) x FBT rate (that is, the result from step 7 x 2.0647).	$7,700 x 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 and amount 4 (that is, the result from step 3 plus step 6).	$6,000 + $3,000 = **$9,000** The type 2 individual base non-exempt amount is $9,000.
10	Use the following formula: Type 2 individual base non-exempt amount X 1 1 - FBT rate (that is, the result from step 9 x 1.8692).	$9,000 x 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 Registered 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) • 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 Registered Public Benevolent Institution and Registered Health Promotion Charities$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 x 46.5% = **$1,264.80**

		The FBT payable by Registered Health Promotion Charity is $1,264.80.

6.10 Calculating the FBT rebate

Registered Charities 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 can't 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 means the number of days you were an employer. It does not refer to the total number of days in the year.

The **aggregate non-rebatableamount** is the proportion of the taxable value of fringe benefits for which you can't obtain a rebate.

The PBI, HPC and rebatable employers calculator will help you calculate your FBT liability. The $30,000 capping threshold for rebatable employers has been considered in the calculator.

You can also use the steps in tables 1 and 2 below to help you calculate the FBT payable.

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

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. For a list of excluded fringe benefits, refer to Reportable 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 Reportable fringe benefits.	$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 and 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: Type 1 individual fringe benefits amount X FBT rate + GST rate (1 - FBT rate) x (1 + GST rate) x FBT rate (that is, the result from step 7 x 2.0647).	Individual grossed-up type 1 fringe benefits taxable amount
9	Add amount 3 and 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: Type 2 individual fringe benefits amount X 1 1 - FBT rate (that is, the result from step 9 x 1.8692).	Individual grossed-up type 2 fringe benefits amount
11	For each employee add: • the individual grossed-up type 1 fringe benefits amount • 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 x 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.

Do you provide any of the following excluded benefits?

- Benefits that constitute the provision of meal entertainment.
- Benefits that would be a car parking fringe benefit.
- Benefits attributable to entertainment facility leasing expenses.

If **no**:

- enter the amount calculated at step 11 in table 1 into step 11 in table 2 below
- complete steps 12-15
- move on to table 3.

If **yes**, start from step 1 in table 2 below.

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. These excluded fringe benefits are listed in Reportable 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 Reportable fringe benefits. Excluded benefits specifically not to be included in this calculation are listed in section **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 for step 4 minus the result for 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: X FBT rate + GST rate (1 - FBT rate) x (1 + GST rate) x FBT rate (That is, the result from step 7 x 2.0647).	Individual grossed-up type 1 non-rebatable 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-rebatable amount
10	Use the following formula: Type 2 individual base non-rebatable amount X 1	Individual grossed-up type 2 non-rebatable amount

	1 - FBT rate (That is, the result from step 9 x 1.8692).	
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) • 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 from step 11 minus $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 under step 13 by the FBT rate.	The result is your **aggregate non-rebatable amount** for the FBT year.
15	Use this formula: 0.48 X (gross tax - aggregate non-rebatable amount) X number of days in FBT year you were a rebatable employer / total days in FBT year That is: 0.48 X (table 1, step 13 minus table 2, step 14) X rebatable days in year / 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 from 31 October in an 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).

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 Reportable fringe benefits.	$1,100 + $3,000 **= $4,100** The excluded fringe benefits are the restaurant meals and the remote area rent reimbursement.
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 and 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 X FBT rate + GST rate (1 - FBT rate) x (1 + GST rate) x FBT rate (That is, the result from step 7 x 2.0647).	$8,800 x 2.0647 = **$18,169** (rounded to the nearest dollar) The individual grossed-up type 1 fringe benefits taxable amountis **$18,169**.
9	Add amount 3 and 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 amountis **$9,000**.
10	Use the following formula: Type 2 individual fringe benefits amount X 1 1 - FBT rate (That is, the result from step 9 x 1.8692).	$9,000 x 1.8692 = **$16,822** (rounded to the nearest dollar) The individual grossed-up type 2 fringe benefits amountis **$16,822**.
11	For each employee add: • the individual grossed-up type 1 fringe benefits amount • 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 amountis **$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 x 46.5%).	$34,991 x 0.465 = **16,270.81** The gross tax is **$16,270.81**.

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

Table 2 - Calculating your FBT rebate

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 Reportable fringe benefits. 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 • benefits attributable to entertainment facility leasing expenses.	**$3,000** (The $3,000 is the remote area rent reimbursement. The restaurant meals of $1,100 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 amountis **$7,700**.
8	Use the following formula: Type 1 individual base non-rebatable amount X FBT rate + GST rate	$7,700 x 2.0647 = **$15,898** (rounded to nearest dollar) The individual grossed-up type 1 non-

	(1 - FBT rate) x (1 + GST rate) x FBT rate (That is, the result from step 7 x 2.0647).	rebatable amountis **$15,898**.
9	Add amount 3 and 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 amountis **$9,000**.
10	Use the following formula: Type 2 individual base non-rebatable amount X 1 1 - FBT rate (That is, the result from step 9 x 1.8692).	$9,000 x 1.8692 = **$16,822** (rounded to the nearest dollar) The individual grossed-up type 2 non-rebatable amountis **$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) • 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 amountis **$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 under step 13 by the FBT rate.	$2,720 x 0.465 = **$1,264.80** Theaggregate non-rebatable amount is **$1,264.80**.
15	Use this formula: 0.48 X (gross tax - aggregate non-rebatable amount) X number of days in FBT year you were a rebatable employer total days in FBT year That is: 0.48 X (table 1, step 13 - table 2, step 14) X	0.48 X ($16,270.81 - $1,264.80) X 183 183 =0.48 X $15,006.01 X 1 = **$7,202.88** The **FBT rebate** is **$7,202.88**.

	rebatable days in year total days in year	

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

Table 3 - Calculating 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).	$16,270.81 - $7,202.88 = **$9,067.93** The FBT payable is **$9,067.93**.

6.11 Reportable fringe benefits

If the value of certain fringe benefits provided to your employees or their associates exceeds $2,000 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 you organisation is not liable to pay FBT. For a list of benefits that are excluded from the reporting requirements, refer to Reportable fringe benefits.

More information

For more information on:

- charities and registration, refer to Income tax guide for non-profit organisations
- Registered Public Benevolent Institutions and Registered Health Promotion Charities and registration, refer to GiftPack
- applying for endorsement, refer to Application for endorsement as a tax concession charity or income tax exempt fund
- reportable fringe benefits, refer to Reportable fringe benefits - facts for employees.

- Taxation Ruling TR 2003/5 - *Income tax and fringe benefits tax: public benevolent institutions*.

Changes and updates

The electronic version of the guide is reviewed on a regular basis. The following changes and updates have been made to this chapter.

Date	Update
December 2013	Revised to reflect new ACNC measures.

Last Modified: Monday, December 2013

Chapter 7 - Car fringe benefits

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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
- 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 either:

- the car 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 either:

- 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 - for more information, refer to section **18.6** of Residual fringe benefits.

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 under the home garaging rule, at the time the emergency vehicle is garaged, it must be:

- used by an ambulance, police or fire fighting service
- have fitted exterior markings indicating such a use
- also be equipped 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:

- **Statutory formula method** - following the 2011 Budget, changes were made to the statutory formula method which has resulted in the old progressive statutory rates being replaced with a single statutory rate of 20% (subject to transitional rules), which applies regardless of kilometres travelled. This rate applies to all car fringe benefits after 7.30pm AEST on 10 May 2011, except where there is a 'pre-existing commitment' in place to provide the car (for a meaning of the term 'commitment' see section **7.4**). The taxable value of the car fringe benefits is the statutory rate multiplied by the car's base value.
- **Operating cost method** - the taxable value of the car fringe benefit is a percentage of the total costs of operating the car during the fringe benefits tax (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 (for more information, see section **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 us 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 us 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:

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

Where:

- A = the base value of the car
- B = the applicable 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 cost price you paid (excluding registration and stamp duty)
- the cost of any fitted non-business accessories
- dealer delivery charges.

All cost and charges include goods and services tax (GST) and luxury car tax where appropriate.

Non-business accessories are fitted accessories not required to meet the special needs of your business operations. An example of a business accessory is a fitted GPS in a salesman's car, while alloy wheels, rear spoilers and seat covers are non-business accessories. 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.

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 (for more information, see section **7.7**).

Cost price

Cost price is generally the expenditure incurred by you or the lessor for the acquisition or delivery of the car. Usually, this is the purchase price (GST included) that has been paid, although there may be arrangements in place which have an impact on the cost price.

For example, where an employee provides a trade-in or cash payment as part of the sale agreement, the cost

price would be the purchase price minus the trade-in or cash payment. Fleet discounts and manufacturer rebates may also reduce the expenditure incurred on the acquisition of the car.

Alternatively, where an employee pays an amount directly to you, you will need to look at the terms of any agreements and contracts in place to determine whether this payment is an employee contribution or not.

An employee contribution does not reduce the cost price of the car.

For more information about the cost price of a car, refer to Taxation Ruling TR 2011/3.

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 starts 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 2003. The employer can reduce the base value of the car by one-third ($10,000) in the FBT year beginning 1 April 2008.

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

A flat statutory rate of 20% applies (subject to transitional rules), regardless of the distance travelled, to all car fringe benefits you provide after 7.30pm AEST on 10 May 2011 (except where there is a pre-existing commitment in place to provide a car).

The statutory percentages for car fringe benefits provided before 7.30pm AEST on 10 May 2011, or where you have a pre-existing commitment in place to provide the car after this time, 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
More than 40,000	7

You can continue to use these statutory rates for all pre-existing commitments unless there is a change to that commitment.

Transitional arrangements and rates

The move to one statutory rate of 20% will be phased in over four years. There will be transitional arrangements that apply to any new commitments entered into from 10 May 2011 to 31 March 2015. Where there is a change to a pre-existing commitment these transitional arrangements will also apply. The following statutory rates should be used:

Total kms travelled during	Statutory rate			
	From 10 May 2011	From 1 Apr 2012	From 1 Apr 2013	From 1 Apr 2014
Less than 15,000	0.20	0.20	0.20	0.20
15,000 to 25,000	0.20	0.20	0.20	0.20
25,000 to 40,000	0.14	0.17	0.20	0.20
More than 40,000	0.10	0.13	0.17	0.20

Skipping the transitional arrangements

For any new commitments entered into during this period, you can choose to skip the transitional arrangements and apply the 20% statutory rate; however, this choice is subject to certain conditions mentioned below.

You cannot skip the transitional arrangements where an employee would be worse off as a result of this choice. That is, the employee cannot be placed at a direct financial disadvantage as a result of this choice, unless you have obtained the consent of the employee.

For example, you cannot require an employee to bear the financial impact of skipping the transitional arrangements by charging the employee a higher salary packaging amount as a result of an increase in FBT payable merely to save on compliance costs, unless you have obtained the consent of the employee to do so.

The choice to skip the transitional arrangements is on a car-by-car basis.

You do not need to notify us of your choice, as your business records are sufficient evidence of this.

Meaning of the term commitment

A 'commitment' is entered into at the point there is a financially binding commitment to a transaction on one or more of the parties and it cannot be backed out of. The commitment needs to be one that relates to the application or availability of the car to an employee or associate.

For example, there are a number of steps involved where you negotiate with an employee and a salary packaging provider to put in place a novated lease arrangement in relation to a car. A commitment would generally be entered into, and would be financially binding, when you or the employee orders the car that is to be provided by way of a novated lease arrangement and there is a financial penalty if the order is cancelled.

The term 'pre-existing commitment' means a commitment to the application or availability of the car that was made before 7.30pm AEST on 10 May 2011.

Where you, or an employee or their associate, has committed to the car before 7.30pm AEST on 10 May 2011, but provision of the car fringe benefit does not take place until after 7.30pm AEST on 10 May 2011, the old statutory rules will apply.

Example: Commitment entered into before 7.30pm AEST 10 May 2011 but car delivery is delayed

> During April 2011, Constance began discussions with her employer and a salary packaging provider about obtaining a car through a salary sacrifice arrangement.
>
> On 2 May 2011, Constance agreed to a particular option put forward by the salary packaging provider and the car was ordered.
>
> The car is scheduled for delivery on 1 August 2011, at which point she will sign documents with the leasing provider for the provision of the car.
>
> As Constance entered into a commitment on 2 May 2011, the old statutory rules will apply.

Change to a pre-existing commitment - same employer

Alterations to a pre-existing commitment can result in the application of the new 20% flat rate (or transitional rate). Examples of such alterations include:

- refinancing the car
- alterations to existing lease contracts, such as changing the duration of an existing lease contract and changes to a lease to reflect a revised residual value
- where accessories (such as window tinting, DVD players, luggage racks or bull bars) are fitted to a leased car after the lease started, the lease is altered and lease payments are increased to reflect this change.



If changes such as these are made then, where you remain as the employer, you will only begin to apply the flat 20% rate (or applicable transitional rate) from the beginning of the next FBT year.

Example: Change to a pre-existing commitment made part way through the FBT year - same employer

Blake entered into a novated lease arrangement with his employer in 2009. The original lease period expired in September 2011. The car travelled 32,000 kilometres in the 2011-12 FBT year and the annualised kilometres travelled in the 2012-13 FBT year will be 34,000. The use of the car is valued under the statutory formula method.

In August 2011, Blake decided to refinance the same car for another year and signed documents agreeing to extend the lease by 12 months. This would be considered to be a change to the pre-existing commitment and the new flat 20% rate (or transitional rate) can apply. However, the new rates will only begin to apply from the beginning of the next FBT year following the date of this changed commitment (that is, from 1 April 2012).

This is because a changed commitment to the car by the same employer began to apply part way through an FBT year in relation to a car that was available from 1 April 2011. The statutory rate of 0.11 (that is, the rate under the old rules) will apply for the entire 2011-12 FBT year.

For this car, the new statutory rates will begin to apply from 1 April 2012. Accordingly, for the FBT year starting on 1 April 2012, the transitional rate of 0.17 will apply.

Change of employer or change of car

FBT applies to you as an employer. Any change of the employer, even within the same group of companies, will constitute a new commitment to the application or availability of the car by the new employer. This means the statutory rate of 20% (or applicable transitional rate) will be used by the new employer immediately.

Likewise, any change of car (after 7.30pm AEST on 10 May 2011) will always be a new commitment to which the 20% flat rate (or applicable transitional rate) will apply immediately, even where the employer stays the same.

Example: Change in employer

Anna works for X Co and entered into a three year novated lease arrangement with her employer in January 2010. The car fringe benefits are valued by her employer using the statutory formula method.

On 12 November 2011, Y Co officially takes over X Co and Anna is now an employee of Y Co.

As Anna's employer has changed, car fringe benefits provided by the new employer from 12 November 2011 will come under the new statutory rates immediately.

Alterations that would not be considered to be changes to a pre-existing commitment

Any alterations that do not result in a change to the financially binding commitment to the application or availability of the car will not be considered to be changes to a pre-existing commitment and the old statutory rates can continue to be applied. Examples of alterations that would not be considered to be changes to a pre-existing commitment include:

- more or fewer kilometres travelled resulting in a change to the amount of FBT payable and subsequent payments by the employee to you under a salary packaging arrangement, but does not involve an amendment or change to the lease contract
- adjustments to salary packaging arrangements which alter post-tax employee contributions
- use of an employer's 'fleet car' by different employees (not involving any salary sacrifice arrangements).

Annualised kilometres

If you own or lease a car for part of an FBT year, you may 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.

You can use the following formula to calculate an annualised figure if you use the old statutory rates or the transitional rates:

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

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 the FBT year
- C = the number of days in that period.

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 section **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 either:

- 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
- 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. For the approved declaration, refer to Declarations.

An employee contribution (other than a contribution of services as an employee) is treated as consideration for a taxable supply for GST purposes. Therefore, you 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 either:

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

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

Statutory formula method examples

Example: Calculation using the old statutory rates

An employer purchases a car for $30,000 (including GST) on 1 August 2009 however, it was

only available for private use by the employee for 182 days from 1 October 2009 and:

- the car's base value is $30,000
- from 1 August 2009 to 31 March 2010 the car travelled 18,000 kilometres (the annualised kilometres for the full 2009-10 FBT year would be 27,037 (18,000/243 x 365), 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:

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

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.

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

Example: Annualised kilometres

From the period 1 April 2009 to 31 March 2010 an employer provides a car to two employees for private use and:

- the car's base value is $30,000
- the car is available to employee one for 183 days and employee two for 182 days
- employee one travels 20,000 kilometres and employee two travels 7,000 kilometres (the annualised kilometres are 27,000, so the relevant statutory percentage is 11%).

Taxable value = (30,000 x 11% x 365/365) = $3,300

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 x B) - C

Where:

- A is the total operating costs
- B is the percentage of private use
- C is the employee contribution.

Determining total operating costs

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

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

Therefore, 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)
- 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 price, including the cost of non-business accessories. The cost price 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. 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.

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.

Cost price

Cost price is generally the expenditure incurred by you or the lessor for the acquisition or delivery of the car. Usually, this is the purchase price (GST included) that has been paid, although there may be arrangements in place which have an impact on the cost price.

For example, where an employee provides a trade-in or cash payment as part of the sale agreement, the cost price would be the purchase price minus the trade-in or cash payment. Fleet discounts and manufacturer rebates may also reduce the expenditure incurred on the acquisition of the car.

Alternatively, where an employee pays an amount directly to you, you will need to look at the terms of any agreements and contracts in place to determine whether this payment is an employee contribution or not.



An employee contribution does not reduce the cost price of the car.

For more information about the cost price of a car, refer to Taxation Ruling TR 2011/3.

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. This means that a different deemed depreciation rate applies to cars acquired on or after 1 July 2002.

The FBT legislation has been updated to reflect the income tax diminishing value capital allowance figure for the **2008-09 FBT year** onwards.

From **1 April 2008**, the depreciation rate for cars acquired on or after 10 May 2006 is 25%.

The deemed depreciation rate changed from 1 April 2008 (the FBT year ending 31 March 2009) onwards as follows:

Date car purchased	**FBT year ending 31 March 2008 (previous rates)**	**FBT year ending 31 March 2009 and future years (current rates)**
Up to and including 30 June 2002	22.5%	22.5%
From 1 July 2002 to 9 May 2006	18.75%	18.75%
On or after 10 May 2006	18.75%	25%

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 - for more information, see section 7.8

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. Therefore, the travel, including the return trip, would therefore constitute business travel.

For example, a medical practitioner, under the terms of 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, their responsibility for treating the patient starts when they 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 start 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)
- 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 they are 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:

- travel is a fundamental part of the employee's work
- the existence of a web of workplaces in the employee's regular employment - that is, the employee has no fixed place of work
- the employee continually travels from one work site to another (an employee must regularly work at more than one work site before returning to their usual place of residence).

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 either:

- 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
- 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. For the approved declaration, refer to Declarations.

An employee contribution (other than a contribution of services as an employee) is treated as consideration for a taxable supply for GST purposes. Therefore, you 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 either:

- the contribution is made through payment of an amount by the employee for some of the car's operating costs (for example, fuel)
- 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 2008 is used privately by an employee throughout the FBT year 1 April 2008 to 31 March 2009, and:

- operating costs (including GST, as appropriate) for that period (fuel, insurance, registration, repairs and so on) total $5,000
- the depreciated value at 1 April 2008 is $20,000, so that depreciation at 25% to 31 March 2009 would be $5,000 (that is, 25% of $20,000)
- the statutory interest rate is 9.00%, so that the interest component to 31 March 2009 would be $1,800 (that is, 9.00% of $20,000)
- the percentage of private use established under the procedures outlined above is 25%
- 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 2008-09 FBT year would be:

A x B - C

Where:

- A = $11,800 (total operating costs), that is, $5,000 actual costs plus $5,000 deemed depreciation plus $1,800 deemed interest
- B = 25% (percentage of private use)
- C = $1,000 (amount of employee contribution).

Taxable value = ($11,800 x 25%) - $1,000 = $1,950

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 either:

- a taxi, panel van or a utility designed to carry less than one tonne
- any other road vehicle designed to carry a load of less than one tonne (that is, a vehicle 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).

Where the vehicle is designed to carry one tonne or more, you may be eligible for an exemption under the motor vehicles - residual fringe benefits exemption.

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 section **7.1**, a residual benefit arises - for more information, refer to section **18.6** of Residual fringe benefits.

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 one of the following applies:

- they are designed to carry a load of one tonne or more, or more than eight passengers
- 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 seat) by 68 kilograms, 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 ineligible for the work-related use exemption.

Example: Dual cab vehicles

A dual cab vehicle with a gross vehicle weight of 1,950 kilograms, a basic kerb weight of 1,400 kilograms 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 x 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 (the 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
- 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 consequences 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.

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 their 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 2008. 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 2008.
>
> The employee started working for a new employer on 1 May 2008. 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.

FBT consequences of acquiring the car at the end of a lease

If the employee acquires the car at the end of a bona fide lease for its residual value, this will be an arm's length transaction on which you would not be subject to FBT.

This is because the residual value and notional value would be the same, so the benefit provided to the employee will have a nil taxable value.

We will generally accept the agreement as a bona fide lease if:

- there is no express or implied agreement under which ownership would pass to the lessee at the end of the lease
- the residual value under the lease is equal to or exceeds the minimum residual value calculated in accordance with Taxation Ruling IT 28.

However, if the agreement is not covered by a bona fide lease, a fringe benefit would usually arise.

7.8 Record keeping requirements for cars

The record keeping requirements vary for the statutory formula and operating cost methods and are explained below. For more information, refer to Fringe benefits tax record keeping.

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 form approved by the Commissioner.

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.

To obtain a copy of the fuel expenses declaration, refer to Declarations.

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 in section **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
- lease documents.

Total kilometres travelled

If you use the statutory formula method to calculate the taxable value of a car fringe benefit provided before 7.30pm AEST on 10 May 2011, or where you had a pre-existing commitment for a car benefit provided after that time, or you are required to use the transitional rates, 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 do not 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, 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
- 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)
- 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)
- 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 one of the following applies:

- 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)
- the Commissioner of Taxation, by written notice, requires you to treat the year as a logbook year.

More information

- Taxation Determination
    - TD 2012/7 - Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2012?
    - TD 2011/6 - Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2011?
    - TD 95/63 - Fringe benefits tax: where a car is acquired at the end of a lease, is the acquisition at the residual value an 'arm's length transaction' for the purposes of section 43 of the Fringe Benefits Tax Assessment Act 1986 (FBTAA)?
    - 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 (for example 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?
    - TD 94/19 - Fringe benefits tax: is the method outlined in Taxation Ruling MT 2024 appropriate for determining whether a vehicle, other than a dual or crew cab, is 'designed for the principal purpose of carrying passengers' and thereby ineligible for the work-related use exemption available under subsection 8(2) of the *Fringe Benefits Tax Assessment Act 1986*?
- Taxation Ruling
    - IT 28 - Leasing arrangements of plant and machinery
    - TR 1999/15 - Income tax and fringe benefits tax: taxation consequences of certain motor vehicle lease novation arrangements
    - TR 2011/3 - Fringe benefits tax: meaning of 'cost price' of a car, for the purpose of calculating the taxable value of car fringe benefits
- Miscellaneous Tax Ruling
    - MT 2033 - Fringe benefits tax: application of subsection 8(2) exemption to modified cars
    - MT 2024 - Fringe benefits tax: dual cab vehicles eligibility for exemption where private use is limited to certain work related travel
    - MT 2027 - Fringe benefits tax: private use of cars - home to work travel
    - MT 2050 - Fringe benefits tax: payment of recipients contributions by journal entry
- Fringe benefits tax - exempt motor vehicles

Changes and updates

The following tables detail any major changes and updates made to this chapter.

May 2011

Section	Changes and updates
More information	Most recent tax determinations and publication included. Removed reference to older tax rate determinations.

July 2011

Section	Changes and updates
7.4 Statutory formula method	On 10 May 2011 the government announced changes to the statutory formula for calculating a car fringe benefit. Days available for private use and period car held have been changed to different time periods at 'Example 1' under 'Example: Calculation using the statutory formula method'. At 'Example: Calculation using the statutory formula method', example 2 included for car shared between employees.

August 2011

Section	Changes and updates
7.2 Taxable value	Added information about the 2011 Budget changes to the statutory formula method.
7.4 Statutory formula method	Added information about what rate applies, and when the old rates can still be used, as a result of the 2011 Budget changes to the statutory formula method. Added information to assist with transition to new 20% rate, including examples of application. At 'Cost price', updated information to reflect views expressed in TR 2011/3.

7.5 Operating cost method	At 'Cost price', updated information to reflect views expressed in TR 2011/3.
7.8 Record keeping requirements for cars	At 'Total kilometres travelled', updated information to reflect records of kilometres travelled not required where the new 20% rate is used.

April 2012

Section	Changes and updates
7.7 Novated leases	Updated information about purchasing a car at the end of the lease.
More information	Added the most recent tax determinations and ruling relating to purchasing a car at the end of a lease.

Last Modified: Tuesday, 8 May 2012

Chapter 8 - Loan and debt waiver fringe benefits



Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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 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.

Goods and services tax (GST) does not affect the taxable value of debt waiver fringe benefits, so these benefits are always grossed up at the type 2 rate. For more on GST and fringe benefits tax (FBT), refer to What is fringe benefits tax?

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 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. If you later decide to recover the debt, a loan benefit continues to arise provided the employee is still obliged to repay the outstanding 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 (refer to

section 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. 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 for the following year is announced in a taxation determination, usually published in April. The statutory interest rate for the year commencing 1 April 2010 is 6.65%.

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
1 April 2007	8.05
1 April 2008	9.00
1 April 2009	5.85
1 April 2010	6.65
1 April 2011	7.80
1 April 2012	7.40

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 type 2 rate. For more on GST and FBT, refer to What is fringe benefits tax?

Example:

> On 1 April 2008, 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 9.00%.
>
> The notional interest on such a loan would be $4,500 ($50,000 x 9.00%).
>
> The actual interest for the 2008-09 FBT year would be $2,500 ($50,000 x 5%). The difference of $2,000 ($4,500 - $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 can't 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 in section **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 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 (refer to section **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 you can deduct from the taxable value of the fringe benefit.
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 2008, 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 9.00%.

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 x statutory interest rate) - (Amount of loan x actual interest rate charged)	($50,000 x 9.00%) - ($50,000 x 5%) $4,500 - $2,500 = $2,000
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 x 9.00% =$4,500
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?	$4,500 x 60% = $2,700
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 x 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.	$2,700 - $1,500 = $1,200
6	The taxable value is the result from step 1 minus the result from step 5.	$2,000 - $1,200 = $800

Example: rate set with regard to employee's use of loan

On 1 April 2008, 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 employee intends to use 50% of the loan for interest-bearing investments and spend the remaining 50% on home improvements.

The statutory interest rate was 9.00%.

The 5% 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. Therefore, the employer 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 x statutory interest rate) - (Amount of loan x actual interest rate charged)	($50,000 x 9.00%) - ($50,000 x 5%) $4,500 - $2,500 = $2,000

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 x 9.00% = $4,500
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?	$4,500 x 60% business use = $2,700
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 9.00%. 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 x 9.00% interest rate x 60% business use. The employee would have been entitled to a deduction of: $4,500 interest x 60% business use = $2,700 = ($50,000 x 9.00% x 60%) - ($50,000 x 9.00% x 50%) =$2,700 - $2,250 = $450
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.	$2,700 - $450 = $2,250
6	The taxable value is the result from step 1 minus the result from step 5.	$2,000 - $2,250 = 0

There can be no negative figures.

8.8A Special rules under new law for otherwise deductible rule and jointly provided loan fringe benefits

As described in section **8.8**, the 'otherwise deductible' rule only applies if the recipient of a benefit is the employee. The FBT law also contains a design feature so that loan fringe benefits provided jointly to an employee and an associate are deemed to be provided solely to the employee. In cases where the otherwise deductible rules also apply, the new law provides a special rule so that the otherwise deductible rule only applies to the employee's share of any deductible amount, and specifically excludes the associate's share of any deductible amount.

If:	then:
the loan fringe benefit was provided or the loan arrangement was entered into before 7.30pm AEST on 13 May 2008	the previous law will continue to apply until 1 April 2009.
the loan fringe benefit was provided or the loan arrangement was entered into from 7.30pm (AEST) on 13 May 2008	the special rules under the new law apply.

Previous law

Under the previous law, an employer can reduce the taxable value of a loan fringe benefit provided jointly to an

employee and their associate where the loan is applied to pay for an income earning asset owned by both the employee and their associate, to the extent that the asset produces assessable income by both persons (unadjusted notional deduction).

Amended law

Under the amended law, you must adjust the taxable value of a fringe benefit determined under the previous law (unadjusted notional deduction) by only allowing the employee's share of the deduction.

That is, the otherwise deductible amount is calculated as:

Unadjusted notional deduction x employee's percentage of interest

Where:

- the unadjusted notional deduction is the deduction calculated as if the new law did not apply
- the employee's percentage of interest is the employee's (not the associate's) interest in the asset
  - which is purchased with all or part of the loan, and
  - is applied or used for the purpose of producing assessable income of the employee.

Example: previous law applies

An employer provides an employee and her husband with a $100,000 low to purchase $100,000 worth of shares which they will hold jointly with a 50% interest each. The employee and her husband each include 50% of the dividends from the shares as assessable income in their income tax returns.

If the loan arrangement has operated from 31 March 2006 and continues throughout the 2009 FBT year, the otherwise deductible rule would apply to reduce the taxable value of the loan fringe benefit by both the employee's and her associate's share of the benefit. That is, the $10,000 loan fringe benefit would be reduced to nil and the employer would not have an FBT liability for the FBT year ending 31 March 2009.

Example: amended law applies

If the agreement was entered into and the loan was provided on 1 June 2008, the otherwise deductible rule would still apply, but the taxable value could only be reduced by the employee's share in the income producing asset - that is, $10,000 x 50% = $5,000.

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 don't 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.

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
- 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.

For a copy of the *Loan fringe benefit declaration*, refer to Declarations.

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 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

section **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 log book records and/or odometer records. The second and third methods are substantiated by an employee declaration only. For full details and the appropriate declaration, refer to Employee cars - applying the 'otherwise deductible' rule.

The employee declaration shown in section **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 section **8.8**.

If the fringe benefit is of a type that attracts the **remote value further - as explained in section 19.2** of Reductions in fringe benefit taxable value.

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 section **20.4** of Fringe benefits tax exempt benefits, or must be temporary accommodation eligible for a reduced taxable value in accordance with the relocation concessions (refer to section **19.4** of Reductions in fringe benefit taxable value).

More information

- Miscellaneous Taxation Ruling MT 2019 - Fringe benefits tax: shareholder employees of family private companies and directors of corporate trustees.
- Taxation Determination
  - TD 2012/7 - *Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2012?*
  - TD 2011/6 - *Fringe benefits tax: what is the benchmark interest rate to be used for the fringe benefits tax year commencing on 1 April 2011?*
  - 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?*
  - TD 95/17 - *Fringe only for those periods in the year of tax during which the interest rate on the loan was below the statutory interest rate?*
  - TD 93/90 - *Income tax: does the 'otherwise deductible rule' apply to reduce the taxable value of fringe benefits provided to associates of employees?*

Changes and updates

The following table details any major changes and updates made to this chapter.

June 2012

Section	Changes and updates
8.4 Statutory interest rate	Most recent statutory interest rate included.
More information	Most recent tax determination included. Removed reference to older tax rate determinations.

Last Modified: Tuesday, 3 July 2012

Chapter 9 - Expense payment fringe benefits



Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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:

1. where you (the employer) reimburse an employee for expenses they incur
2. 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 don't 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 Property fringe benefits and Residual fringe benefits.

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:

1. an in-house property expense payment fringe benefit
2. 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 expense payment fringe benefit.

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 Residual fringe benefits 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.

Find out more

Residual fringe benefits, explains changes to the valuation of in-house residual benefits provided from 22 October 2012 under a salary packaging arrangement.

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 purchase 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 (refer to section **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 x 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) x 80% = $250 x 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 x 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 x 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

9.4 A The 'otherwise deductible' rule and jointly provided expense payment fringe benefits

As described in section **9.4**, the 'otherwise deductible' rule only applies if the recipient of a benefit is the employee. The FBT law also contains a design feature so that expense payment fringe benefits provided jointly to an employee and an associate are deemed to be provided solely to the employee. In cases where the 'otherwise deductible' rule also applies, it will only apply to the employee's share of any deductible amount and specifically excludes the associate's share of any deductible amount.

If:	then:
the expense payment fringe benefit was provided, or a salary sacrifice arrangement relating to the benefit was entered into, before 7.30pm AEST on 13 May 2008	the previous law will continue to apply until 1 April 2009.
the expense payment fringe benefit was provided, or the salary sacrifice arrangement relating to the benefit was entered into, from 7.30pm (AEST) on 13 May 2008	the amended law applies.

Previous law

An employer could reduce the taxable value of an expense payment fringe benefit provided jointly to an employee and their associate in relation to an income producing asset owned by both the employee and their associate, to the extent that the asset is applied to produce assessable income by both persons (unadjusted notional deduction).

Amended law

You must adjust the taxable value of a fringe benefit determined under the previous law (unadjusted notional deduction) by only allowing the employee's share of the deduction.

That is, the otherwise deductible amount is calculated as:

Unadjusted notional deduction x employee's percentage of interest, where:

- the unadjusted notional deduction is the deduction calculated as if the amended law did not apply
- the employee's percentage of interest is the employee's (not the associate's) interest in the asset
  - which relates to the expense payment fringe benefit, and
  - is applied or used for the purpose of producing assessable income of the employee.

Example: previous law applies

An employee and his wife jointly own a rental property, each with a 50% interest. The rental income from the property is $20,000 and the associated deductible expenses are $10,000. The property is available for rent during all of the FBT year.

The employer reimburses the employee and his wife for the rental expenses ($10,000) on the 31 March 2008. There are no employee contributions made by the employee. The 'otherwise deductible' rule applies and that taxable value can be reduced to nil (that is, by both the employee's and their spouse's interest in the deductible rental expenses).

Example: amended law applies

If the expenses are reimbursed on 1 June 2008, the 'otherwise deductible' rule would still apply, but the taxable value could only be reduced by the employee's share of the deductible rental expenses - that is, $10,000 x 50% = $5,000.

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 don't 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.

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 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
- the employee's expense is incurred for travel outside Australia for more than five consecutive nights.

In determining whether a travel diary needs to be kept, you need to look at the number of nights the employee is away from home. The number of nights away from home includes transit time.

Example: travel more than five consecutive nights

An employee lives in Brisbane and travels to Hawaii for work purposes. The employee's flight to Hawaii departs from Sydney. The employee leaves their home in Brisbane on 2 April, flies to Sydney, and departs for Hawaii on 3 April. The employee returns directly to Brisbane on 8 April. The employee is away from their home for six nights in total and would need to keep a travel diary.

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.

If the provision of the expense payment or residual benefit is covered by an annual 'no private use declaration' (refer to section **20.3** of Fringe benefits tax exempt benefits), the requirement to obtain a travel diary will be waived. That is, if the expense payment benefit is subject to a consistently enforced prohibition on private use and which would result in a taxable value of nil, you will then be able to make an annual no private use declaration.

Such a declaration would state that the benefits were provided only for employment related purposes and that there was no private portion.

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 or 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
- the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

To obtain an *Expense payment benefit declaration*, refer to Declarations.

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)
- 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.

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.

To obtain a *Recurring expense payment fringe benefit declaration*, refer to Declarations.

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 section **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 log book records and/or odometer records. The second and third methods are only substantiated by the use of employee declarations.

For full details about applying the 'otherwise deductible' rule and the Employee's car declaration, refer to Employee cars - applying the 'otherwise deductible' rule.

The employee declaration referred to in section **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 sections **9.2** and **9.3**. Where the 'otherwise deductible' rule applies, you then reduce the taxable value as explained in section **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:

- in-house fringe benefits - tax-free threshold
- remote area residential fuel
- remote area housing assistance
- remote area holiday transport
- remote area home ownership schemes
- overseas employment holiday transport
- relocation transport - where transport is by employee's car
- relocation - temporary accommodation and meals
- employment interviews and selection tests - where transport is by employee's car
- occupational health and migrant language training - where transport is by employee's car
- living away from home - food provided
- entertainment expense payments
- overseas employees - education of children.

For details of the reductions, refer to Reductions in fringe benefit taxable value.

9.8 Exempt expense payment benefits

The following is a list of exemptions that may apply to expense payment fringe benefits:

- no-private-use declaration
- living away from home accommodation
- car expenses - expense payments
- employment interviews and selection tests - transport
- relocation - removal and storage of household effects
- relocation - engagement of a relocation consultant
- relocation - sale or acquisition of dwelling
- relocation - connection or reconnection of certain utilities
- living away from home - leasing of household goods
- relocation - transport
- motor vehicle parking
- newspapers and periodicals
- compensable work-related trauma (including workers' compensation insurance cover)
- travel in a foreign country to obtain medical treatment
- travel for compassionate reasons
- occupational health and migrant language training
- emergency assistance
- minor benefits
- long service awards
- safety awards
- Australian Traineeship System
- provision of certain work-related items
- membership fees and subscriptions
- taxi travel
- provision of certain non-entertainment meals.

For details of the exemptions, refer to Fringe benefits tax exempt benefits.

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 (refer to section **9.4**). There are special rules determining the otherwise deductible amount for car expense payment benefits (refer to Employee cars - applying the 'otherwise deductible' rule).

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 (refer to section **19.2** of Reductions in fringe benefit taxable value) and overseas employment holiday transport (refer to section **19.3** of Reductions in fringe benefit taxable value). 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 (refer to section **16.1** of Car parking fringe benefits).

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 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 benefit, 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.

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 can't 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 (refer to section **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.

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.

There are certain conditions that must be met for the exemption to apply (refer to section **20.8** of Fringe benefits tax exempt benefits).

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 for the 2007-08 and earlier financial years, to the extent they use it for a taxable purpose.

The laptop must be purchased, or the contract for purchase must be entered into, at or before 7.30pm on the 13 May 2008 for the employee to be eligible for the decline in value. If the laptop was purchased, or the contract for purchase was entered into, after 7.30pm on the 13 May 2008, the employee is not entitled to a deduction for the decline in value of the laptop.

Mobile phone

If the mobile phone is primarily for use in the employee's employment, the benefit is an exempt benefit (refer to section **20.8** of Fringe benefits tax exempt benefits).

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 (refer to section **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 (refer to Housing fringe benefits).

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 (refer to Residual fringe benefits).

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 (refer to section **20.4** of Fringe benefits tax exempt benefits).

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 (refer to section **9.4**). The use of the 'otherwise deductible' rule must be supported by certain records (refer to section **9.5**).

Unlike when claiming an income tax deduction, for FBT you don't have to reduce self-education expenses by $250 when working out the otherwise deductible amount.

Higher Education Loan Program (HELP) charges are not otherwise deductible for the employee, and the full value is subject to FBT if paid by you. All HELP debt repayments and HECS-HELP student contributions in the form of upfront payments for Commonwealth supported higher education are not otherwise deductible for the employee. This means that the full value is subject to FBT if paid by you.

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

For more information, refer to:

- FEE-HELP and VET FEE-HELP - tax deductibility
- OS-HELP and tax deductibility
- Taxation Ruling
  - TR 92/15 - Income tax and fringe benefits tax: the difference between an allowance and a reimbursement.
  - TR 98/9 - Income tax: deductibility of self-education expenses.
- 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?
  - 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?

Changes and updates

The following tables detail any major changes and updates made to this chapter.

November 2013

Section	Changes and updates
9.3 In-house expense payment fringe benefits	Added in reference to chapters 17 and 18 regarding the changes to the valuation of in-house property benefits provided under a salary packaging arrangement from 22 October 2012.

Last Modified: December 2013

Chapter 10 - Housing fringe benefits

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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
- 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 (refer to Residual fringe benefits).

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 reduced by any 'recipients rent' which in effect are rental payments.

Market value

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)
- 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.

Rental payment

A rental payment is the amount of rent or other consideration paid to the provider of the housing benefit in respect of the housing right. It is not restricted to rental money, but it must be something which is capable of being formally recognised within the lease or licence for the housing right. That is, it must be something for which a cash value can be determined. For example, a lease could specify that an employee will pay the costs of general maintenance of the property, and this would be considered a rental payment.

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
- 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 rental payments made by the employee. The market rental value must be calculated by reference to the period during the fringe benefits tax (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 (refer to section **10.8**).

There are two sub-categories of these benefits for valuation purposes, namely:

1. 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
2. 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 rental payments made 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 rental payments.

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 rental payments made 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 ATO. 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 x 365 = $6,033.05

Example: Several employees occupying house

An employee occupied a house owned by the employer from 1 July 2007 to 31 March 2008 (that is, 275 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 2009 to 31 March 2009 (that is, 90 days). The indexation factor for the state of New South Wales for the year ended 31 March 2009 was 1.045.

A third employee occupies the house from 1 August 2009 to 31 March 2010 (that is, 243 days). The indexation factor for New South Wales for the year ended 31 March 2010 is 1.072.

The house was left vacant except for the periods described above.

No rental payment was made by any of the employees.

The taxable value of the benefit provided to the first employee (in the 2008 FBT year) was $8,640.

The taxable value of the benefit provided to the second employee (in the 2009 FBT year) was $2,962.97. 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.	$11,499.05 (that is, $8,640 x 366/275)
2	Determine the indexed rental value for the 2009 year.	$11,499.05 x 1.045 = $12,016.50
3	Determine the taxable value of the accommodation provided to the employee according to the period of occupancy.	90/365 x $12,016.50 = $2,962.97

The taxable value of the benefit provided to the third employee (in the 2010 FBT year) was $8,576.02. This was determined using the following steps.

Step	Action	Result
1	Index the previous year's (that is, 2009) annual rental value by the published indexation factor.	$12,016.50 x 1.072 = $12,881.68
2	Determine the taxable value of the accommodation provided to the employee according to the period of occupancy.	243/365 x $12,881.68 = $8,576.02

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 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 below) 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 *Temporary accommodation relating to relocation declaration* must be in a form approved by the Commissioner (refer to Declarations).

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 all 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.

c It would be concluded that it must 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.

d The benefit was not provided to the employee under either:

- a non-arm's length arrangement,
- an arrangement that was entered into by any of the parties for the purpose, or partial purpose, to obtain the concession.

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 is **either**:

- less than 40 kilometres from an eligible urban area with a census population of 14,000 to less than 130,000
- 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, and
- 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.

Where the shortest practical surface route includes water

From 1 April 2007, when determining whether a location is remote and the shortest practical surface route includes a route by water, the distance between these locations is worked out using the following formula:

[total kilometres of the surface route that are by water x 2] + total kilometres of the surface route that are by land.

Example

Wong Island is 80 kilometres, by the shortest practical surface route, from the centre point of an inland eligible urban area with a population of 140,000. The shortest practical surface route to the island involves 40 kilometres of travel by road and 40 kilometres of travel by sea.

Wong Island is also situated 45 kilometres, by the shortest practical surface route, from the centre point of an eligible urban area with a population of 20,000.

Prior to 1 April 2007, Wong Island would not have been considered 'remote' for FBT purposes as it is less than 100 kilometres away from an eligible urban area of at least 130,000. However, from 1 April 2007, Wong Island will be 'remote' as it is 120 kilometres - that is, (40 kilometres by water x 2) + 40 kilometres by land - from an eligible urban area by the shortest practical surface route.

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
- 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.

The extended definition of remote area housing for some regional employers **only** applies to the remote area residential fuel reduction. It does **not** apply to the other remote area reductions explained in section **19.2** of Reductions in fringe benefit taxable value.

of Reductions in fringe benefit taxable value.

More information

- Fringe benefits tax - remote areas
- Miscellaneous Taxation Ruling MT 2025 - Fringe benefits tax: guidelines for valuation of housing fringe benefits.
- Taxation Determination (TD):
  - TD 2013/5 - 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 2013?
  - TD 2012/4 - 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 2012?

Changes and updates

The following table details any major changes and updates made to this chapter.

October 2013

Section	Changes and updates
10.8	Removed dated information, and clarified information, relating to Remote area housing benefits. Clarified information relating to the reductions in taxable value and the Extension of remote area housing exemption for some regional employers.
More information	Removed reference to older tax rate determinations and practice statement.

Last Modified: October 2013

Chapter 11 - Living-away-from-home allowance fringe benefits

Unlike most other types of fringe benefits, a living-away-from-home allowance fringe benefit can only be provided by the employer to the employee.

The information provided relates to the application of the FBT law to living-away-from-home allowance fringe benefits as at 1 October 2012. For information about the application of the FBT law to such fringe benefits provided because the employee was living away from home (LAFH) before 1 October 2012, see *Living-away-from-home-allowances - before 1 October 2012*

11.1 Overview

For fringe benefits tax (FBT) purposes, a living-away-from-home allowance (LAFHA) is an allowance you (the employer) pay to your employee to compensate for additional expenses incurred and any disadvantages suffered because the employee's duties of employment require them to live away from their normal residence.

Instead of paying a cash LAFHA to an employee, you could provide other fringe benefits, either by:

- reimbursing the employee's actual food costs and/or accommodation expenses incurred at the new location, or
- providing the food or accommodation yourself.

For further information about these other fringe benefits, see section 11.13 of this document.

Key differences between current and previous law

Changes were made to the FBT law in relation to the concessional tax treatment of LAFH allowances and benefits.

Current law	Previous law
Access to the tax concessions for living-away-from-home allowances and benefits is limited to a period of 12 months for an employee (other than employees working on a fly-in fly-out or drive-in drive-out basis) at a particular work location, and to cases where the employee: • maintains a home in Australia at which they usually reside and is available for their immediate use and enjoyment during that period	No 12-month limitation applies No requirement to maintain a home in Australia before the LAFH tax concession can apply No requirement to be able to substantiate expenses before the LAFH tax concessions can apply Only needed to make a declaration about living away from home

that their duties of employment require them to live away from home and • can substantiate all expenses incurred on accommodation and • can substantiate all expenses incurred on food or drink (if the food or drink expenses incurred are more than the Commissioner of Taxation's reasonable amounts) and • provides you with a declaration about living away from home and, where required, a declaration on substantiation.	
Special rules apply to employees who are working on a fly-in fly-out (FIFO) and drive-in drive-out (DIDO) basis. These employees: • do not have to maintain a home in Australia for their own use and enjoyment for the concessional tax treatment to apply in relation to these living away from home fringe benefits and • are not limited to a 12-month period for the concessional tax treatment. However, these employees must still: • substantiate their expenses incurred on accommodation and • substantiate their expenses incurred on food or drink (if the amount) and • provide you with a declaration relating to living away from home and, where required, a declaration on substantiation.	The concept of FIFO and DIDO was not strictly part of LAFH.
You can reduce the taxable value of LAFH allowances provided to these employees by: • the amount of employee's actual substantiated accommodation expenditure while living away from home, and • the amounts incurred by the employee for food or drink costs while living away from home less (minus) a statutory amount if applicable.	The taxable value could be reduced by the exempt accommodation and exempt food components.

Transitional rules may affect the above requirements.

Does the current law or the previous law apply?

If...	Then...
The LAFHA is paid because the employee is	The current law applies (subject to

living away from home from 1 October 2012 onwards	transitional rules)
The LAFHA is paid because the employee was living away from home before 1 October 2012	The previous law applies

Example

Michelle receives a LAFHA from her employer on the 30 June 2012. The LAFHA is paid to cover the additional accommodation and food or drink expenses Michelle is expected to incur over the next 12 months because Michelle's job requires her to live away from home.

The taxable value of that part of the LAFHA paid because Michelle was living away from home from 1 October 2012 onwards will be determined under the current law (subject to the transitional rules). The taxable value of that part of the LAFHA paid because Michelle was living away from home on or before 30 September 2012 is determined under the previous law.

The information provided in this chapter relates to the current law.

For information about the previous law, *see Living-away-from-home-allowances - before 1 October 2012.*

11.2 What is a living-away-from-home allowance fringe benefit?

The payment of a living-away-from-home allowance (LAFHA) is a fringe benefit.

For FBT purposes, a LAFHA is an allowance you (the employer) pay to an employee to compensate for additional expenses incurred and any disadvantages suffered because the employee's duties of employment require them to live away from their normal residence.

The term 'additional expenses' does not include expenses the employee would be entitled to claim as an income tax deduction.

For a payment to an employee to be considered a LAFHA, there are **three** conditions that must be met:

1. It is an allowance you pay your employee in respect of the employment of that employee.
2. 2. The duties of their employment require them to live away from their normal residence.
3. 3. The whole or part of the allowance is in the nature of compensation for:
    - non-deductible additional expenses your employee might be expected to incur, or
    - non-deductible additional expenses your employee might be expected duties of your employee's job require them to live away from their normal residence.

Duties of employment require your employee to live away from normal residence

A LAFHA exists where it is reasonable to conclude from all the surrounding circumstances that some or all of the allowance is in the nature of compensation to the employee for accommodation and additional living expenses that the employee might be expected to incur because the duties of the employee's employment *require* them to live away from their normal residence.

Whether an employee's job requires them to live away from their normal residence, and where the employee's normal residence is located, is a question of fact and will depend on each employee's circumstances.

Normal residence

'Normal residence' is a broad term that means a LAFHA fringe benefit can arise regardless of the location of an employee's usual place of residence.

While an employee's usual place of residence may be in Australia or outside Australia, it is their normal residence that will be relevant for determining whether there is a LAFHA fringe benefit.

If an employee's usual place of residence is...	Then their normal residence is...
in Australia	that usual place of residence.
not in Australia and they have a place in Australia where they usually reside while living in Australia	that place in Australia they usually reside while living in Australia
not in Australia and they **do not** have a place in Australia where they usually reside while living in Australia	their usual place of residence overseas

Example: Employee's usual place of residence is outside Australia and normal residence is Australian residence

Fiona, a British citizen, comes to Australia to work for three years. usual place of residence is in the United Kingdom.

Fiona takes out a lease and rents a home in Sydney for the duration of her employment in Australia.

After Fiona has been in Australia for six months, her employer asks her to work in the Melbourne office for six months. During the six-month period, in which she will be working in the Melbourne office, Fiona is paid an allowance to cover her Melbourne food, drink and accommodation expenses.

For the purposes of determining whether the allowance is a LAFHA fringe benefit, the home in Sydney is considered to be her normal residence because it is the place in Australia where Fiona usually resides when in Australia.

Example: Employee's normal residence is usual place of residence and is outside Australia

Harry, a British citizen, comes to Australia to work for three years. He intends to return to the United Kingdom at the end of the period. His usual place of residence is in the United Kingdom.

Harry takes out a lease and rents a home in Sydney for the duration of his employment in Australia.

After Harry has been in Australia for a few weeks, his employer asks him to work in the Melbourne office for the remainder of his time in Australia. During the period in which he will be working in the Melbourne office, Harry is paid an allowance to cover his Melbourne food, drink and accommodation expenses.

Even though Harry has taken out a lease of the Sydney home for three years, Sydney would not be considered to be his normal residence in Australia because he had lived there only briefly - that is, Sydney could not be considered the place in Australia where Harry usually resides while in Australia. His normal residence in this case would be his usual place of residence in the United Kingdom.

Usual place of residence

An employee's place of residence is the place at which they reside or have some form of sleeping accommodation, regardless of whether on a permanent or temporary basis, or on a shared basis. However, the question of whether an employee is living away from their *usual* place of residence involves a consideration of two places of residence - the place where the employee is living at the time, and some other place.

An employee is regarded as living away from their usual place of residence if they would have continued to live at the former place had the duties of their employment not required them to work temporarily in the new locality.

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 determining whether living away from home

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 will depend on the facts of each case. Similar principles can apply to determine if an employee is living away from their normal residence.

Factors such as the lifestyle of the employee and the type of profession and industry often need to be taken into consideration.

Other relevant factors 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. These may also affect the calculation of the taxable value of any LAFHA fringe benefit.

Some employees do not have a fixed usual place of residence because of the transitory nature of their lifestyle, which means that their normal 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 - these employees will not generally be regarded as living away from home.

Examples of employees on appointments of finite duration who will generally be living away from their usual places of residence are foreign nationals employed in Australia (expatriate employees) and Australian residents stationed in foreign countries for a time - for example, export consultants, diplomats and immigration officials.

The same applies where an employee transfers to a new locality within 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 their normal residence provided that they intend to return there at the end of the term of the transfer.

The general presumption is that a person's normal residence will be close to where they are permanently employed.

Generally, employees in the following kinds of situations would be regarded as living away from their normal 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, who are 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.

For further information about the difference between a travelling allowance and a LAFHA, see section 11.12 of this document.

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 because their duties of employment require them to live away from their usual place of residence is a LAFHA for FBT purposes, provided the allowance is expressly stated to be a LAFHA. For these employees, they do not need to have a usual place of residence in Australia.

11.3 Steps to take if you want to pay your employee a LAFHA

If you pay your employee a LAFHA, you need to do the following:

Step	Action	Section reference in this document
1	Ensure that the amount paid to the employee is in fact a LAFHA by	11.2, 11.13

	definition.	
2 a	Calculate the taxable value of the LAFHA fringe benefit. This can vary, depending on whether: The employee is a temporary or foreign resident and the transitional rules apply	11.4, 11.5, 11.6, 11.7, 11.10,
b	The employee is not a temporary or foreign resident and the transitional rules apply	11.4, 11.5, 11.6, 11.10,
c	The employee maintains a home in Australia at which they usually reside and the fringe benefit relates to the first 12-month period, and the transitional rules **do not** apply	11.4, 11.5, 11.6, 11.7, 11.8
d	The employee works on a fly-in fly-out or drive-in drive-out basis	11.4, 11.5, 11.6, 11.7, 11.9,
e	Any other circumstance applies	11.4
3	Keep the appropriate records and declarations	11.11 and Fringe benefits tax record keeping (chapter 4)
4	If required, report an amount as a reportable fringe benefit on the employee's payment summary (not as a taxable allowance)	Reportable fringe benefits (chapter 5)

If you are not paying a cash LAFHA to your employee, but rather are providing accommodation or food or drink, or reimbursing them for these expenses, see section 11.13 in this document.

11.4 Taxable value

The taxable value of the LAFHA fringe benefit depends on the circumstances of the employee. The calculation of the taxable value falls into three circumstances:

- the employee maintains a home in Australia at which they usually reside and the fringe benefit relates to the first 12-month period (note that transitional rules may apply)
- the employee is working on a fly-in fly-out or drive-in drive-out basis
- all other cases.

If your employee	**Then the taxable value is**
- Maintains a home in Australia at which they usually reside and it is available for their use at all times, - Receives a LAFHA fringe benefit which relates to the first 12-month period at a particular work location, and - Gives you the appropriate declaration about living away from home **(transitional rules may apply,** see 11.10 of this document)	The amount of the LAFHA paid, less (minus): - any exempt accommodation component, and - any exempt food component
- Works on a fly-in fly-out or drive-in drive out basis - Has residential accommodation at or near their usual place of employment, and	The amount of the LAFHA paid, less (minus): - any exempt accommodation component, and - any exempt food component.

- Gives you the appropriate declaration about living away from home	
Does not fall into either of the above situations	The amount of the fringe benefit.

The taxable value is not reduced by any exempt food component to the extent the fringe benefit relates to a period during which the employee resumes living at his or her normal residence. This means that if you pay an allowance for food or drink during any days that the employee returns home, the allowance that relates to those days is fully taxable for FBT purposes.

11.5 Exempt accommodation component" component

The accommodation component is the amount of the LAFHA fringe benefit that it is reasonable to conclude is compensation for expenses to be incurred by the employee for accommodation while the employee is living away from home. The accommodation expenses are for both the employee and any eligible family members, such as the employee's spouse and children.

The **exempt accommodation component** is so much of the accommodation component that equals the accommodation expenses actually incurred by the employee. Where a family member incurs these expenses on behalf of the employee, that family member is considered to be acting as an agent of the employee and, therefore, the employee is still the person incurring those expenses. The employee must substantiate all accommodation expenses.

If an employee does not spend all of the LAFHA provided in respect of the accommodation component, the excess is **not** an exempt accommodation component and is taxable.

Example

Steve receives a LAFHA from his employer which includes an accommodation component of $450 while he is seconded to Perth for 12 months. His normal residence is in Melbourne, and his Melbourne home continues to be available for his immediate use during his secondment. Steve resides with his wife, Helen, who rents a house in Perth for 12 months at a cost of $450 per week. The exempt accommodation component in this case is $450, provided the substantiation requirements are met.

Example

Steve and his wife Helen both work for the same employer and receive a LAFHA. Each LAFHA includes an accommodation component of $450 while they are seconded to Perth for 12 months. Steve and Helen's normal residence is in Melbourne, and their Melbourne home continues to be available for their immediate use during their secondment. Steve and Helen rent a house together in Perth at a cost of $450 per week.

Steve and Helen's separate exempt accommodation components in this case are $225 each per week, provided the substantiation requirements are met.

As Steve and Helen are each receiving an accommodation component of $450 per week, but are only spending $225 each per week, the excess of $225 each per week ($450 - $225) is not an exempt accommodation component. This excess of $225 each per week will form part of the taxable value of their respective LAFHA fringe benefits.

11.6 Exempt food component

The steps for calculating the exempt food component are outlined below:

Step	Action
1	Establish the food component
2	Subtract the applicable statutory food total from the food component. That is: Food component - applicable statutory food total
3	From the amount calculated at step 2, determine how much of that amount was

	incurred by the employee on food and drink.
4	The exempt food component is so much of the result of step 3 that can be substantiated if required.

Where a family member incurs these expenses on behalf of the employee, that family member is considered to be acting as an agent of the employee and, therefore, the employee is still the person incurring those expenses.

The exempt food component does not include food expenses relating to any days during which the employee resumes living at his or her normal residence - this means that if you pay an allowance for food or drink for any days that the employee returns home, that part of the allowance for those days is fully taxable.

Food component

The food component in relation to a LAFHA fringe benefit is so much that might reasonably be concluded is compensation for expenses to be incurred by the employee for food or drink while the employee is living away from home. The expenses are for food or drink for both the employee and any eligible family members.

Applicable statutory food total

The applicable **statutory food total** is:

the sum of the statutory food amounts of the employee and any eligible family members

less (minus)

any amount that might reasonably be expected to be the total normal food or drink expenses for eligible family members had they remained living in their normal residence during the period, and was taken into account by the employer in working out the food component.

The applicable statutory food total cannot be below zero.

The statutory food amount is $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.)

The applicable statutory food total calculation reflects two alternative practices:

- one where you may provide an allowance that is net of the statutory food amount to compensate employees only for **additional** food or drink expenses.
- the other being where you provide an allowance that includes the statutory food amount to compensate employees for **total** food or drink expenses.

Example: Allowance includes compensation for additional food costs

An employee living away from their normal residence is paid a LAFHA of $933 per week. Of that allowance:

- $700 is compensation for the cost of accommodation, which is fully spent by the employee on accommodation and is substantiated by the employee.
- $233 represents compensation for the **additional** food costs only while living away from home. The employee declares that they have spent no more than the Commissioner's reasonable food amount and, therefore, is not required to substantiate their expenditure.

In this example, the allowance includes compensation for additional food costs. The employer calculated the $233 food component by deducting $42 (estimated normal home food consumption costs) from the estimated food costs of $275.

The taxable value is calculated as follows, because the substantiation requirements are met:

Total allowance	$933

Less (minus):		
Exempt accommodation component	$700	
and		
Exempt food component*	$233	$933
Taxable value		**$0**

*In this case, the exempt food component is $233 - ($42 - $42).

Because the food allowance is only for additional food costs, the exempt food component is $233. This amount is not required to be substantiated because it does not exceed the Commissioner's reasonable amount for food and drink expenditure.

Example: Allowance includes compensation for total food costs

An employee living away from their normal residence is paid a LAFHA of $900. Of that allowance:

- $500 is compensation for the cost of accommodation, which is fully spent by the employee on accommodation. The employee substantiates their accommodation expenditure.
- $320 represents compensation for the **total** food costs while living away from home. This amount is more than the Commissioner's reasonable food amount and the employee actually spends $260 on food. The employee substantiates their total food expenditure.
- 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, because the substantiation requirements are met:

Total allowance		$900
Less (minus):		
Exempt accommodation component	$500	
and		
Exempt food component*	$260	$760
Taxable value		**$140**

*In this case, the exempt food component is $320 - ($42 - $0) = $278. However, because the employee only spent $260 (and this can be substantiated) this becomes the exempt food component.

The taxable value is $80 paid for disadvantages suffered for living away from home + $60 food component that was not spent = $140.

The $60 consists of the $42 statutory food amount plus the remaining $18 difference between the $278 - $260.

Commissioner's reasonable food amount

The Commissioner will issue an annual taxation determination specifying the reasonable amount for food and drink expenses for future years. The Commissioner determines a reasonable amount for food and drink expenses incurred by the employee for which substantiation is not required.

An employee is required to substantiate all the expenses incurred on food and drink if the total of those expenses incurred exceeds the amount the Commissioner considers reasonable.

However, while the Commissioner will determine the amounts that are considered reasonable for the purposes of alleviating the requirement for an employee to substantiate expenses incurred on food and drink, the Commissioner does not determine if a LAFHA paid to an employee is reasonable or not.

The amount paid as a LAFHA is a matter to be determined between you and your employee, having regard to appropriate matters, such as any industrial laws or requirements.

Expenditure equal to or less than the Commissioner's reasonable food amount

Where the employee incurs expenditure on food or drink that is **equal to or less than** the Commissioner's reasonable food amount, no substantiation of the food or drink expenditure is required. Before paying a LAFHA which consists of a food component, you must be able to conclude that an employee will incur expenditure on food or drink. As a result, it is reasonable for you to be satisfied that there has been expenditure on food or drink up to the Commissioner's reasonable amount.

This means that the Commissioner accepts that the employee has spent an amount equal to the lesser of **either**:

- the food component (if it is less than the Commissioner's reasonable food amount), or
- the Commissioner's reasonable food amount

on food or drink for the purposes of this calculation where no substantiation is required.

The effect of paying an allowance where the employee's expenditure is equal to or less than the Commissioner's reasonable food amount is outlined in the table below.

If you pay an allowance that is..	**And the expenditure incurred by the employee is equal to or less than the Commissioner's reasonable food amount then..**
- for **additional** food costs, and is less than or equal to the Commissioner's reasonable food amount	- No substantiation is required. - The taxable value of the food component is nil.
- for **additional** food costs and is more than the Commissioner's reasonable food amount	- No substantiation is required. - The taxable value is the difference between the allowance paid and the Commissioner's reasonable food amount.
- for **total** food costs and - equal to the total of the Commissioner's reasonable food amount + an amount up to the statutory food total	- No substantiation is required. - The taxable value of the allowance is the statutory food total
- for **total** food costs and - equal to the total of the Commissioner's reasonable food amount plus an amount greater than the statutory food total	- No substantiation is required. - The taxable value of the allowance will be at least the amount of the statutory food total.



See 11.11 of this document for more information on the record keeping requirements.

The Commissioner has issued Taxation Determination TD 2013/4 about the reasonable amount for food or drink expenses which will apply from 1 April 2013.

For the period from 1 October 2012 to 31 March 2013, you should apply the reasonable amounts detailed in Taxation Determination TD 2012/5.

Example: allowance includes compensation for additional food costs and expenditure is less than Commissioner's reasonable food amount

An employee living away from their normal residence is paid a LAFHA of $630 per week. Of that allowance:

- $350 is compensation for the cost of accommodation. This amount is by the employee.
- $200 is compensation for the **additional** cost of taken into account by the employer. This is less than the Commissioner's reasonable food amount.
- 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, assuming the substantiation requirements for the accommodation component is met:

Total allowance	$630
Less (minus):	

Exempt accommodation component	$350	
and		
Exempt food component*	$200	$550
Taxable value		**$80**

*Amount taken to be spent on food less (minus) statutory food amount - that is, $200 - ($42 - $42) = $200.

Because the food component paid is $200, which is less than the Commissioner's reasonable food amount, the full amount of the food component is accepted as having been spent.

The taxable value is:

- $80 paid for disadvantages suffered for living away from home

Example: allowance includes compensation for total food costs and expenditure is less than Commissioner's reasonable food amount

An employee living away from their normal residence is paid a LAFHA of $730 per week. Of that allowance:

- $350 is compensation for the cost of accommodation. This amount is by the employee.
- $300 is compensation for the total cost of food while away from home. The employee advises they have spent less than the Commissioner's reasonable food amount.
- 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, because the substantiation requirements for the accommodation component are met and where the Commissioner's reasonable food amount is $233:

Total allowance		$730
Less (minus):		
Exempt accommodation component	$350	
and		
Exempt food component*	$233	$583
Taxable value		**$147**

*Food component - applicable statutory food total, that is $300 - ($42 - $0) = $258. Because there is no substantiation required because the amount spent by the employee is less than the Commissioner's reasonable food amount, the exempt food component is accepted as being the Commissioner's reasonable food amount of $233.

The taxable value is:

- $80 paid for disadvantages suffered for living away from home
- $67 being the $42 statutory food total plus the $25 (that is, $258 - $233) that was not included in the exempt food component (as substantiation was not required because the employee spent drink).

11.7 Employee maintains a home in Australia" Australia

An employee's home in Australia (the place in Australia where they usually reside) can be a unit of accommodation as defined in the FBT legislation. This definition is broad and includes a house, flat, home unit, caravan or accommodation in living quarters.

To maintain a home in Australia, **all** of the following must apply:

- the employee or their spouse must have an ownership interest in a home
- that home must be available for their immediate use and enjoyment at all times while they are living away from it, and

- it is reasonable to expect that the employee will resume living at that home when they are no longer living away from home for the purposes of their employment.

Ownership interest

Ownership interest includes both a legal or equitable interest, and a licence or right to occupy a dwelling. An employee or their spouse can have an ownership interest in a home they own or rent.

An adult child living with their parents generally does not have a home as required, because they are not usually responsible for the mortgage or rental payments. Any payment of board would not change this position because the payment of board is considered to be a domestic arrangement.

Immediate use and enjoyment

For the employee to maintain a home for their immediate use and enjoyment at all times, the entire home cannot be rented out or sub-let while they are living away from it. The employee must incur the ongoing costs of maintaining the residence, such as mortgage or rental payments and rates. The employee must be able to return to the home at any time and take up immediate occupancy.

Boarders, tenants or house-sitters

If an employee has a boarder or tenant staying with them in their normal residence, the employee can still be considered to be maintaining the home for their own use and enjoyment. However, the boarder's or tenant's stay must not impinge on the availability of the residence for the individual's immediate use and enjoyment.

Likewise, if an employee has a house-sitter in their home while they are living away from it, they will be maintaining the home when the house-sitter is either:

- required to vacate the residence, or
- their stay does not impinge on the employee's use and enjoyment of it whenever the employee returns home - for example, during temporary visits.

Similarly, if an employee decides to rent or sub-let a **part of their home** while they are living away from it, such as a bedroom or granny flat, they will be maintaining a home for their own use and enjoyment if the employee continues to have occupancy rights and the rental or sub-let does not restrict the employee's use and enjoyment of the property when the employee returns home.

11.8 First 12 months employee is required to live away from home

The fringe benefit has to relate to all or part of the first 12 months their employment. The 12 months do not have to be consecutive.

You can choose to pause the 12-month period - for example, you may choose to pause the period because the employee is taking leave, such as annual leave, long service leave or sick leave. This gives you the flexibility to pause the period when circumstances arise in which it is appropriate and beneficial to do so.

The table below outlines how the 12-month period is affected by various employment situations.

If...	**Then...**
You pause the 12-month period for the employee and continue to pay them a LAFHA	The taxable value of the fringe benefit is **not** the paused period. The full amount of the fringe benefit is taxable during the paused period.
- The employee moves to another location to perform the duties of employment (the employee's work location changes), and - it is unreasonable to expect the employee to commute to the new location from the earlier location for which a LAFHA was provided	A new 12-month period starts at the new employment location. The balance of the 12-month period is available if the employee returns to the previous employment location.
An employee takes up employment with an	The 12-month period is not affected - that is, it is

associate of their employer, and works in the same employment location	accumulated under both employers; there is not a new 12 months under the associated employer.
Any other changes in the nature of the employee's employment are made within the same work location, such as changes to the conditions of employment (a promotion of the employee to a management position, or a change in the employee's job title)	The 12-month period is not affected.
The employee takes up employment with a different employer, who is not an associate of their previous employer.	A new 12-month period starts when the employee changes employers.

Example

Jess receives a LAFHA from her employer while she is seconded to Brisbane for 12 months. Her normal place of residence is in Canberra. She is living in a serviced apartment in Brisbane.

Part of the way through the secondment, Jess takes a month's leave. Her employer wants her to complete a full 12-month secondment in Brisbane and pauses the 12-month period while she is on leave.

During the paused period, Jess does not lease the serviced apartment in Brisbane and her employer does not pay her a LAFHA.

When Jess resumes her secondment in Brisbane, the employer again pays her a LAFHA and the 12-month period recommences.

Had Jess continued to lease the serviced apartment during the pause in the 12-month period, and Jess's employer continued to pay her a LAFHA during this time, Jess's employer would **not** have been able to reduce the taxable value of the LAFHA by the amount of the allowance paid for the period of leave.

Example

Frank lives and works in Canberra. His employer asks him to work in Sydney for a period of nine months, for which a LAFHA will be paid. After that period of employment in Sydney, Frank returns to Canberra. The LAFHA fringe benefit provided to Frank for the nine months relates to part of the first 12 months that Frank is living away from his Australian home.

At a later time, Frank's employer asks him to work in Melbourne for a number of months. Because this is a new work location, a new 12-month period starts for any LAFHA paid to Frank during his time working in Melbourne.

Example

James is living away from home and is paid a LAFHA by his employer. James's employer undergoes a corporate restructure. James is transferred to a separate entity, who is not an associate of the employer, and works in the same work location. A new 12-month period commences for the new employer in James's case.

Example

Stephen is paid a LAFHA by his employer, a state government department, for living away from home. His employer transfers him to work, in the same location, for a state-owned corporation that is an associate of the department. The 12-month period continues and a new 12-month period does not commence in this case.

Example

Ruth lives and works in Brisbane. For three months of the year, her job requires her to live away from her normal residence and work in Canberra. She returns to her normal residence in Brisbane for the remainder of the year.

This arrangement continues for five years, during which time there is no change to Ruth's employer, work location and duties.

In this case, the LAFHA paid by Ruth's employer is taxed concessionally in each of the first four years. In each of those years, only three months of the first 12 months are used.

In the last year, the value of the fringe benefit is not reduced by any exempt accommodation or exempt food component because the benefit does not relate to all or part of the first 12 months that Ruth is living away from home while working at that same location.

11.9 Fly-in fly-out and drive-in drive-out employees

The employee is considered to be working on a fly-in fly-out or drive-in drive-out (or equivalent) basis when **all** of the following apply:

- on a regular and rotational basis, the employee works for a number of days and has a number of days off which are not the same days in consecutive weeks (that is, following one week after another without interruption), such as a standard five-day working week and weekend
- the employee returns to the employee's normal residence during the days off
- it is customary in the industry in which the employee works for employees performing similar duties to work on a rotational basis and return home during days off - for example, miners - and the work duties continue to be undertaken by other employees on a rotational basis while any particular employee is on their days off
- it is unreasonable to expect the employee to travel to and from work and the normal residence on a daily basis, given the locations of the employment and their home, and
- it is reasonable to expect that the employee will resume living at the normal residence when the employment duties no longer require them to live away from home.

Example

An employee works in the mining industry on a 7-day on, 7-day off roster. The employee works Sunday through to Saturday, and has the following Sunday through to Saturday off.

In this case, the employee is not working the same days in consecutive weeks because the employee is working every day in one week, then not working in the next, and is doing this on a rotational basis.

This is contrasted with an employee who works Monday through to Friday and has Saturday and Sunday off, and does the same in the next week. An employee in this instance is working the same days in each week - they are working on a consecutive basis, week after week.

11.10 Transitional rules

Transitional rules may apply to some employees where certain conditions are met.

If your employee is...	**Then this employee...**
A temporary or foreign resident who: • had an employment arrangement: ◦ in place before 7.30pm (AEST) on 8 May 2012 and ◦ that was not materially varied or renewed from 7.30pm on 8 May 2012 up to and including 30 September 2012, and ◦ maintained a home in Australia for their immediate use and enjoyment at all times during the period their duties of employment required them to live away from it	is not limited to the LAFHA concessions for 12 months before the earlier of: - 1 July 2014, - the date of a material variation in the employment arrangement, or - the date of renewal of the employment arrangement.
Neither a temporary or a foreign resident and had an employment arrangement: - in place before 7.30pm (AEST) on 8 May 2012 and	- is not required to maintain a home in Australia - is not limited to the LAFHA concessions for 12 months

- that was not materially varied or renewed from 7.30pm on 8 May 2012 up to and including 30 September 2012	This is until the earlier of: ◦ 1 July 2014, ◦ the date of a material variation in the employment arrangement, or ◦ the date of renewal of the employment arrangement. **(Note: the 12-month period starts from 1 October 2012 for the purposes of the transitional rules, regardless of the date of any renewal or material variation)**.



The terms temporary resident and foreign resident have their meaning given by section 995-1 of the *Income Tax Assessment Act 1997*. The meaning of temporary resident can also be found by referring to Foreign income exemption for temporary residents - introduction.

Maintaining a home in Australia and the transitional rules for permanent residents

Where the transitional rules apply, a resident who is not a temporary the earlier of **either**:

- 1 July 2014, or
- the date that the employment arrangement was materially varied or renewed.

If the transitional rules apply, employees who are permanent residents only need to have an intention to return to the same city or district at the end of their appointment. It is acceptable that the employee's residence has been rented out or sold, as long as the employee intends to return to their old locality.

12-month period and transitional rules

Where the transitional rules apply, the concessional treatment **does not** apply for another 12 months starting from the earlier of 1 July 2014 or the date of a material variation in the employment arrangement. The 12-month period is taken to notionally commence on 1 October 2012.

If there is no material variation to the employment arrangement, then the transitional rules will continue to apply until 30 June 2014. Once there is a material variation to the employment arrangement, then the concessional treatment will stop immediately if such treatment has already applied for at least 12 months from 1 October 2012. If concessional treatment has not applied for at least 12 months, then it will continue to apply only to the balance of the

12-month period.

Example

Meg is an Australian resident who has been receiving a LAFHA and has had an employment arrangement in place since 1 January 2010. Meg's employment arrangement has not been materially varied or renewed.

If Meg's employment situation does not change, Meg's LAFHA will continue to be taxed concessionally until 30 June 2014. Meg's employer will not be able to apply the concessional taxation treatment of Meg's LAFHA for another 12 months from 1 July 2014.

If Meg's employment contract was materially varied on 1 February 2013, for a period of four months (that is, 1 October 2012 - 31 January 2013). Meg's LAFHA would continue to be taxed concessionally for another eight months (that is, until the 30 September 2013), provided that from 1 February 2013 Meg was maintaining a home in Australia that she was living away from. This means that the 12-month period for Meg started on 1 October 2012 under the transitional rules, regardless of the fact that the material variation to her contract occurred on 1 February 2013. The 12-month period does not commence on 1 February 2013.

If Meg's employment contract was materially varied on 1 February 2014, then the concessional treatment of the LAFHA would cease immediately because there has already been concessional treatment of the LAFHA for at least 12 months (that is, 1 October 2012 - 31 January 2014, being a period of 16 months).

Material variation or renewal of employment arrangement

A material variation occurs when fundamental changes are made to the employment arrangement.

For the purposes of the transitional rules, an annual salary review is not a material variation to an employment arrangement. Changes to an employment arrangement to reflect other annual adjustments, such as the food component of a LAFHA, do not constitute a material variation.

In the case of promotions, it will be a matter of fact depending on the circumstances of each case - for example, if an employee is promoted and the underlying terms of their employment arrangement do not change, there has not been a material variation in the employment arrangement. However, if there are fundamental differences to the employment arrangement arising from the promotion, the employment arrangement has been the subject of a material variation.

Where an employer formally extends the employee's secondment period, through issuing a new contract or by letter confirming an extension to a current arrangement, that would constitute a material variation or renewal of an eligible employment arrangement.

11.11 Record keeping requirements

Employee declarations

To access the concessional treatment for LAFHAs and benefits, your employee will need to give you a declaration about living away from home. The declaration must be in the approved form and will vary depending on your employee's situation.

Your employee may also give you a declaration to substantiate their exempt accommodation and exempt food expenditure.

Situation	Declaration
Employee received a LAFH allowance or benefit before 1 October 2012 Employee is a permanent resident who qualifies for the transitional rules from 1 October 2012	Living-away-from-home declaration
Employee received a LAFH allowance or benefit from 1 October 2012 and works on a FIFO or DIDO basis	Living-away-from-home declaration - employees who fly-in fly-out or drive-in drive-out
Employee received a LAFH allowance or benefit from 1 October 2012 and they are required to maintain a home in Australia at which they usually reside and the fringe benefit relates to the first 12-month period	Living-away-from-home declaration - employees who maintain an Australian home
Employee received a LAFHA from 1 October 2012 and chooses to provide their employer with a declaration about their accommodation and food or drink expenses	Living-away-from-home declaration - employee related expenses

You must obtain all employee declarations no later than the day on which your FBT return is due to be lodged with us or, if you don't have to lodge a return, by 21 May.

To see the approved forms, refer to Living-away-from-home declarations.

Exempt accommodation and exempt food components

To reduce the taxable value of a LAFHA by any exempt accommodation component and any exempt food component, you must obtain from your employee documentation substantiating the expense, as explained below.

Exempt accommodation component	Exempt food component

• The expense must be substantiated **in full**.
• The employee must give you, by the declaration date for the FBT year, either:
  ◦ documentary evidence of the payment of the expense (credit card statements, bank statements, receipts) or a copy of these documents, or
  ◦ a declaration about the expense in the approved form.
	• Where the food or drink expenses **incurred** are **more** than the Commissioner's reasonable amount, then **all** of the food or drink expenses must be substantiated (not just the amount in excess of the Commissioner's reasonable amount).
	• The employee must give you, by the declaration date for the FBT year, either:
	  ◦ documentary evidence of the expense (receipts, tax invoices, credit card statements, bank statements) or a copy of these documents, or
	  ◦ a declaration about the expense in the approved form.
	• Where the food or drink expenses incurred are less than the Commissioner's reasonable amount, the employee **does not** have to substantiate the expense as above.

The Commissioner issues an annual Taxation Determination specifying the reasonable food or drink amount.

It is the amount of food or drink expenditure incurred by the employee that is relevant for the substantiation requirements, **not** the amount of the allowance paid.

To see the approved forms, refer to Living-away-from-home declarations.

Example

Fred's employer pays him more than the Commissioner's reasonable amount for food or drink expenses as part of his LAFHA. Fred incurs food or drink expenses to the full extent of the allowance provided. He must substantiate all his food or drink expenses incurred, not just the amount in excess of the Commissioner's reasonable amount.

If Fred incurred food or drink expenditure that was less than or equal to the Commissioner's reasonable amount, he would not be required to substantiate his food or drink expenditure - the Commissioner's reasonable amount is taken to be his food or drink expenditure.

Timeframes for keeping and receiving records

If...	Then...
Your employee gives you a declaration about living away from home	You must keep the declaration for 5 years from the date they must give you the declaration.
Your employee gives you a declaration about their accommodation, food or drink (or a combination of these)	You must keep the declaration for 5 years from they date they must give you the declaration. Your employee must keep the relevant documentary evidence of their expenses for 5 years from the date they must give you the declaration.
Your employee gives you documentary evidence of their expenses (such as receipts, a copy of credit card statements or bank	You must keep the documents for 5 years from the date they would otherwise be required to give you the declaration.

statements), instead of a declaration about these expenses	

11.12 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 tax 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
This is paid where an employee has taken up temporary residence away from their usual place of residence in order to carry out duties at a new, but temporary, workplace.	This is paid because an employee is travelling in the course of performing their job.
There is a change of job location in relation to paying the allowance.	There is no change of job location in relation to paying the allowance.
Where an employee is living away from home, it is more common for that employee to be accompanied by their spouse and family.	Where an employee is travelling, they are generally not accompanied by their spouse and family.
They are paid for longer periods.	They are paid for short periods.

The indicators above are guidelines only and no single indicator determines the nature of the allowance received. For example, a travelling allowance might be paid to a commercial traveller, or travelling entertainer 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.

11.13 Other living-away-from-home fringe benefits

Rather than paying a cash LAFHA while an employee is required to live 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 exemption may apply in these circumstances:

- living-away-from-home - food provided (refer to section **19.4** of Reductions in fringe benefit taxable value)
- living-away-from-home - accommodation (refer to section **20.4** of Fringe benefits tax exempt benefits)

More information

Taxation Ruling (TR)

TR 92/15 - Income tax and fringe benefits tax: the difference between an allowance and a reimbursement.

Taxation Determination (TD)

TD 2012/5 - 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 2012?

TD 2013/4 - Fringe benefits tax: reasonable amounts under section 31G of the *Fringe Benefits Tax Assessment Act 1986* for food or drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit, for the fringe benefits tax year commencing on 1 April 2013.

Last Modified: Monday, 29 April 2013

Chapter 12 - Airline transport fringe benefits

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

12.1 Overview

Changes have been made to the FBT law relating to airline transport fringe benefits. Under these changes, there is no longer a separate category of fringe benefit for airline transport fringe benefits. Airline transport fringe benefits are now taxed under the in-house benefit provisions and the way the taxable value is calculated has been changed.

This document explains the treatment of airline transport fringe benefits under the current law and also under the previous law. Employers in the airline or travel agent industry need to be aware of these changes.

Summary of changes to airline transport fringe benefits

Previous law	Current law
Airline transport fringe benefits were a separate category of fringe benefit with its own valuation methodology.	Airline transport fringe benefits are not a separate category of fringe benefit - they are now either in-house property or in-house residual fringe benefits and are taxed under the in-house benefit rules.
The taxable value of an airline transport fringe benefit was the stand-by value less the employee contribution.	The taxable value of an airline transport fringe benefit is aligned with the in-house benefit valuation method and is calculated as 75% of the stand-by airline travel value of the benefit, less the employee contribution.
For domestic flights, the value was broadly 37.5% of the lowest publicly advertised economy airfare charged by the provider (or a carrier where relevant), at or about the time of travel, over that route.	Where the transport is on a domestic route, the stand-by airline travel value is 50% of the carrier's lowest standard single economy airfare for that route as publicly advertised during the year of tax.
For international flights, the value was broadly 37.5% of the lowest fare published in Australia as charged by any carrier for travel over that route in the 12 months preceding the end of the year of tax.	Where transport is on an international route, the stand-by airline travel value is 50% of the lowest of any carrier's standard single economy airfare for that route as publicly advertised during the year of tax.

When do these changes apply?

These changes apply to airline transport fringe benefits provided after 7.30pm AEST on 8 May 2012.

Because airline transport fringe benefits provided after 7.30pm AEST on 8 May 2012 are taxed under the in-house benefit provisions, when you prepare your FBT return for the year ended 31 March 2014 onwards, airline transport fringe benefits will be included under the Property or Residual categories in the Details of fringe benefits provided item on the return (currently item 23).

12.2 What is an airline transport fringe benefit?

Airline transport fringe benefits provided before 7.30pm AEST on 8 May 2012

An airline transport fringe benefit arises where employees (or their associates) of airlines or travel agents are provided with free or discounted air travel 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.

Airline transport fringe benefits provided after 7.30pm AEST on 8 May 2012

An airline transport fringe benefit is an in-house property fringe benefit or an in-house residual fringe benefit to the extent the benefit is the provision of transport in a passenger aircraft operated by a carrier (including any incidental services on board the aircraft). The transport must be subject to the stand-by restrictions that customarily apply in the airline industry, for example, free or discounted air travel provided by airlines or travel agents to their employees (or associates) that is subject to stand-by restrictions.

For more information on:

- In-house property fringe benefits, refer to chapter 17 Property fringe benefits

12.3 Taxable value

Airline transport fringe benefits provided before 7.30pm AEST on 8 May 2012

The taxable value of the fringe benefit is the stand-by value, less the employee contribution.

Airline transport fringe benefits provided after 7.30pm AEST on 8 May 2012

The taxable value of an airline transport fringe benefit is aligned with the in-house benefit valuation method and is calculated as 75% of the stand-by airline travel value of the benefit, less any employee contribution.

12.4 Stand-by value

Airline transport fringe benefits provided before 7.30pm AEST on 8 May 2012

The stand by value for airline fringe benefits provided before 7.30pm AEST on 8 May 2012 is outlined below and differs depending on whether the travel is domestic or international travel.

Domestic travel

Domestic travel type	Stand-by value
On a scheduled passenger air service the benefit provider operates.	37.5% of the lowest publicly advertised economy airfare the provider charges for travel: ◦ at or about that time ◦ and for travel over that route.
Not on a scheduled passenger air service the provider operates.	37.5% of the lowest publicly advertised economy airfare a carrier charges for travel: ◦ at or about that time ◦ and for travel over that route.
On a combination of scheduled passenger air services where there is no: ◦ scheduled passenger air service the provider	37.5% of the lowest combination of publicly advertised economy airfares carriers charge for travel: ◦ at or about that time

operates over that route at or about that time ◦ carrier operating a scheduled passenger air service over that route at or about that time.	◦ and for travel over that route.

The lowest publicly advertised airfare 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

International travel type	Stand-by value
On a scheduled passenger air service the benefit provider operates.	37.5% of the lowest published airfare the provider charges for travel over that international route.
Not on a scheduled passenger air service the provider operates.	37.5% of the lowest economy air fare charged by a carrier: ◦ at or about that time ◦ and for travel over that route.
On a combination of scheduled passenger air services where there is no: ◦ scheduled passenger air service the provider operates ◦ carrier operating a scheduled passenger air service over that route at or at about that time.	37.5% of the lowest combination of economy airfares carriers charge: ◦ at or about that time ◦ and for travel over that route.

The lowest published fare for these purposes is the lowest fare published in Australia the carrier charges for travel over that route in the 12 months before the end of the fringe benefits tax (FBT) year. This includes advance purchase but not group discounts.

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.

Airline transport fringe benefits provided after 7.30pm AEST on 8 May 2012

The stand-by airline travel value of the benefit differs, depending on whether the transport is over a domestic route or over an international route.

If the travel is on..	Then the stand-by travel value..
a domestic route	is 50% of ***the*** carrier's lowest standard single economy airfare for that route as publicly advertised during the year of tax. This means the provider must use the lowest standard single economy airfare of the carrier that provided the transport.
an international route	is 50% of ***any*** carrier's standard single economy airfare for that route as publicly advertised during the year of tax. This means the provider can use the lowest standard economy airfare of any carrier that provides commercial airfares over the relevant route.

Domestic and international route

A domestic route means a route in which the flight's departure and arrival are both within Australia. An international route is a route in which the flight's departure or arrival (or both) are outside of Australia.

Standard single economy airfare

The standard single economy airfare is the economy airfare that an ordinary customer would be expected to pay in order to travel the same route in that year of tax.

It does not include the use of any of the following for determining the stand-by airline travel value:

- group booking fares
- one-off fares
- heavily discounted fares as part of a marketing campaign

Example: standard single economy airfare over an international route

An employer that is an airline provider gives one of its employees a free return flight overseas, subject to stand-by restrictions. Included in the flight are a checked luggage allowance, meals and in-flight entertainment.

Another airline provides flights over the same route. Their advertised fare is lower but does not include checked luggage, meals or in-flight entertainment.

In determining the taxable value of the overseas flight provided to its employee, the employer can use the lower fare advertised by the other airline.

Example: group booking fares

An airline provider offers discounted fares where a group booking is made of more than 10 people. Because this discounted fare is not a single economy airfare it cannot be used as a comparable airfare in determining the stand-by airline travel.

Example: marketing campaign

GoCheap (an airline) is attempting to increase its market share and decides to set up a three month marketing campaign and as part of that, put out a select number of fares per flight over a couple of major routes during the off-peak season that are only $1.

The discounted fares are far below the cost price of the service and do not reflect the standard single economy airfare for that particular route and therefore cannot be used as a comparable airfare in determining the stand-by airline travel value.

Example: travel agent and marketing campaign

A travel agent is determining the stand-by airline travel value for an airline transport fringe benefit provided to one of its employees. The airline transport fringe benefit provided to the employee was transport in a GoCheap passenger aircraft from Sydney to Perth.

When determining the lowest standard single economy airfare, the travel agent finds a GoCheap airfare per the example above that is only $1 over the Sydney to Perth route.

Even though the travel agent may not be aware that the flight is far below cost price, the travel agent is able to determine that the flight is heavily discounted as part of a marketing campaign because it is so far below the average range of fares for that route (which the travel agent determines is between $150 and $500 plus).

The travel agent then determines that the GoCheap airfare does not reflect a standard single economy airfare and it is therefore not a comparable airfare that can be used to determine the stand-by airline travel value.

Publicly advertised during the year of tax

In determining the stand-by airline travel value, you need to determine the relevant airfare that is publicly advertised during the relevant year of tax that the transport began.

The term 'publicly advertised' includes the internet, newspapers, television and radio, as well as any other medium in which a member of the public would be able to reasonably determine the cost of the fare.

Example: 2013-2014 is the year of tax

Axel, an employee of an Australian airline, is travelling on an international carrier that is in an interline arrangement with his employer.

Having waited for a few days to get onto a flight to travel home to Australia as part of the stand-by restrictions, Axel is finally able to get on a flight on the 31 March 2014.

Even though the flight lands in Australia on 1 April 2014 local time, the relevant year of tax in determining the stand-by travel value is the 2013-14 FBT year.

Example: 2014-15 is the year of tax

Following on from the example above, assume Axel is unable get onto the 31 March 2014 flight and instead boards on 1 April 2014. In that case, the relevant year of tax is the 2014-2015 FBT year.

12.5 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
- 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. If it is wholly taxable, there is no reduction. However, the taxable value of an airline transport fringe benefit may be partially 'otherwise deductible'.

For an explanation of how the otherwise deductible rule is applied for residual fringe benefits, refer to section **18.7** of Residual fringe benefits.

12.6 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 an Airline transport benefit declaration by the employee, it must be in a form approved by the Commissioner of Taxation (refer to Declarations).

Travel diary

A 'travel diary' is a diary or similar document that must be obtained from the employee where the following apply:

- the airline transport is provided for travel
  - within Australia
  - for more than five consecutive nights, and
  - that 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 consecutive nights.

In determining whether a travel diary needs to be kept, you need to look at the number of nights the employee is away from home. The number of nights away from home includes transit time.

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
- the residual benefit is for accommodation, or is otherwise incidental to the travel.

Employee declaration

You must obtain an *Airline transport benefit declaration*, except where any of the following apply:

- the airline transport fringe benefit is used exclusively in the course of performing employment activities
- 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.

12.7 Concessions

The taxable value of an airline transport fringe benefit may qualify for the 'in-house' benefits concession of up to $1,000, as explained in section **19.5** of Reductions in fringe benefit taxable value.

Changes and updates

The electronic version of the guide is reviewed on a quarterly basis. The following tables detail any major changes and updates made to this chapter at each review.

November 2013

Section	Changes and updates
Various	Updated chapter to include law changes where an airline transport fringe benefit is provided after 7.30pm AEST on 8 May 2012

Last Modified: December 2013

Chapter 13 - Board fringe benefits



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

13.1 What a board fringe benefit is

Providing a meal to an employee is a board fringe benefit if the employee is entitled to have accommodation provided and all of 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 a 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
- 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 per meal per person ($1 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 fringe benefits tax (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.

Goods and services tax (GST) does not affect the taxable value of board fringe benefits so these benefits are

always 'grossed up' at the type 2 rate. For more on GST and FBT, refer to What is fringe benefits tax.

Grossing up means increasing the taxable value of benefits you provide to reflect the gross salary employees would have to earn at the highest marginal tax rate (including Medicare levy) to buy the benefits after paying tax.

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 and so on
- 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

The taxable value of the board fringe benefit is reduced to nil if both of the following apply:

- you provide a board fringe benefit to an employee
- they would have been entitled to an income tax deduction if they had paid for the meal.

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* (refer to section **20.7** of Fringe benefits tax exempt benefits).

Changes and updates

The electronic version of the guide is reviewed on a quarterly basis. The following tables detail any major changes and updates made to this chapter at each review.

2010 calendar year

Quarter 1

Section	Changes and updates
More information	Removed rulings listed under 'More information' as they have been withdrawn.

Quarter 2

Section	Changes and updates
	Nil.

Quarter 3

Section	Changes and updates
	Nil.

Last Modified: Friday, 24 December 2010

Chapter 14 - Entertainment

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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
- 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).

For more on valuing these types of benefits as a tax-exempt body, refer to Tax-exempt body entertainment fringe 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
- 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 (refer to section **14.7**) where fringe benefits are provided by way of, or in connection with, food or drink
- an expense payment fringe benefit (refer to Expense payment fringe benefits) - for example, the cost of theatre tickets purchased by an employee that you reimburse
- a property fringe benefit (refer to Property fringe benefits) - for example, providing food and drink
- a residual fringe benefit (refer to Residual fringe benefits) - for example, providing accommodation or transport
- a tax-exempt body entertainment fringe benefit. This category of fringe benefit involves only those employers who are exempt from income tax (refer to Tax-exempt body entertainment fringe benefits).

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, the more likely it is 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 on 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, refer to section **14.4**
- recreational entertainment, refer to section **14.10**
- **not** entertainment, refer to section **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	Section 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 section **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 (property exemption)

This exemption does not apply to:

- employers who are exempt from income tax when entertainment arises from the provision of food and/or drink
- income tax-paying bodies who elect to value the entertainment as meal entertainment
- meals provided under a salary sacrifice arrangement after 7.30pm AEST on 13 May 2008. Existing balances on meal cards as at 7.30pm on 13 May 2008 remained eligible for the property exemption provided they were used by 31 March 2009. Any increase of balances after 7.30pm AEST on 13 May 2008 are subject to fringe benefits tax (FBT).

Food and/or drink provided to, and consumed by, current employees on your business premises on a working day are exempt property benefits (refer to section **20.6** of Fringe benefits tax exempt benefits). 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)
- 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 (refer to section **20.8** of Fringe benefits tax exempt benefits).

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 can't 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 can't 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 (refer to section **19.5** of Reductions in fringe benefit taxable value) 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
- 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 can't 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:

1. 50-50 split method
2. 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 us or, if you don't have to lodge a return, by 21 May.

You need to carefully consider the 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
- the administration costs of each method for your organisation.

There is no need to notify us of the method you choose as your business records are sufficient evidence of this.

If you don't 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 section **14.5** and section **20.6** of Fringe benefits tax exempt benefits, and the minor benefits exemption described in section **20.8** of Fringe benefits tax exempt benefits don't 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.
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
- 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 section **14.5** and section **20.6** of Fringe benefits tax exempt benefits does not apply to meal entertainment fringe benefits when you use the 12-week register method. However, the minor benefits exemption described in section **20.8** of Fringe benefits tax exempt benefits can apply.

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, therefore, is 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. However, the provision of food or drink in this circumstance is 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 are 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 a taxpaying body

If you are not a tax-exempt organisation (refer to Tax-exempt body entertainment fringe benefits), the following explanations may help you determine whether there are FBT implications arising from a Christmas party.

Exempt property benefits

If you don't use either the 50-50 split method or the 12-week register method for meal entertainment (refer to section **14.8**), 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 (refer to section **20.6** of Fringe benefits tax exempt benefits).

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 (refer to section **20.8** of Fringe benefits tax exempt benefits).

Exempt benefits - minor benefits

The minor benefits rules that apply to Christmas parties are no different from those that apply to any other benefits. Where you provide a Christmas party for your employees and their partners you don't add the costs together, but instead look at the cost of the benefit provided to each person. Each benefit that is less than $300 may be a minor benefit and exempt if certain conditions are met (refer to section **20.8** of Fringe benefits tax exempt benefits). Before 1 April 2007, the minor benefits threshold was less than $100.

The minor benefits exemption **can** apply if you use the 12-week register method for valuing meal entertainment benefits.

Gifts provided to employees at a Christmas party

All benefits associated with the Christmas function should be considered separately to the Christmas party when considering the minor benefits exemption. For example, the cost of gifts such as bottles of wine and hampers given at the function should be looked at separately to determine if the minor benefits exemption applies to these benefits.

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) can't 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 (refer to section **20.8** of Fringe benefits tax exempt benefits).

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
- 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
    - 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
- 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	Section 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 (refer to section **20.8** of Fringe benefits tax exempt benefits).

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 (refer to Expense payment fringe benefits), property (refer to Property fringe benefits) or residual fringe benefit (refer to Residual fringe benefits).

Where you provide recreational entertainment by hiring or leasing entertainment facilities, you may elect to use the 50-50 split method.

Hiring or leasing entertainment facilities

Entertainment facility leasing expenses are the expenses you incur in hiring or leasing:

- a corporate box
- boats or planes for providing entertainment
- other premises or facilities for providing entertainment.

Expenses, or parts of expenses, that are not entertainment facility leasing expenses for these purposes are:

- expenses attributable to providing food or beverages
- expenses attributable to advertising that would be an allowable income tax deduction.

Generally, the transport to and from an entertainment facility will be a separate benefit that will not be part of the entertainment facility leasing expense.

However, the transport may be part of the entertainment facility leasing expense where the transport is provided as part of an all-inclusive package.

Boats or planes for providing entertainment

Expenses incurred in hiring or leasing a boat or plane in their entirety for the purposes of providing entertainment will be 'entertainment facility leasing expenses'.

For example, the hiring or leasing of a houseboat or a charter flight where the whole plane is hired for entertainment purposes would meet the definition of entertainment facility leasing expenses.

When you give an employee a plane ticket for travel to a holiday destination, while this will be entertainment it is not an entertainment facility leasing expense. The purchase of an air fare is not the hiring or leasing of a plane.

However, if the plane ticket is part of an all-inclusive package that includes holiday accommodation, the taxable value of the benefit may be partly attributable to an entertainment facility leasing expense being the cost of hiring the holiday accommodation.

For example, providing an all-inclusive holiday package to an employee organised through a travel agent that includes both flights and the hire or lease of holiday accommodation will be a single benefit whose taxable value is partly attributable to entertainment facility leasing expenses. As the benefit is partly attributable to entertainment facility leasing expenses, the whole of the package will be treated as an entertainment facility leasing expense.

Other premises or facilities for providing entertainment

The phrase 'other premises or facilities' has a wide meaning. In the same way that a corporate box is a part of larger premises or a facility (being the sporting stadium), items that satisfy this category of entertainment facility leasing expense must be either:

- an entire premises or facility
- a distinct area or separate room of larger premises or a facility.

The following are examples of 'other premises or facilities' for providing entertainment:

- a function room in a club or hotel that has been hired to the exclusion of others
- a hotel/motel room
- a room in a bed or breakfast facility
- a cabin on a cruise ship
- a cabin or on-site van at a caravan park
- the hire of a marquee
- where you hire or lease a golf course for a set time or full day to the exclusion of others for example, a corporate golf day
- where you hire one or more tennis courts to the exclusion of others for example, a corporate tennis day.

The following would not be 'other premises or facilities' for providing entertainment:

- a seat on a plane
- a seat at a sporting event
- table in the dining room of a club or hotel
- golf green fees or memberships
- caravan site fees.

50-50 split method

You may elect the total taxable value of 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 us or, if you don't have to lodge a return by 21 May.

There is no need to notify us of the method chosen as your business records are sufficient evidence of this.

The minor benefits exemption described in section **20.8** of Fringe benefits tax exempt benefits does not apply if you elect to use the 50-50 split method for valuing entertainment facility leasing expenses.

The 50-50 split method for entertainment facility leasing expenses only applies to expenses you incur. It does not include, for example, those expenses incurred by an employee that you reimburse.

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
- where the entertainment is provided.

For more information, refer to Fringe benefits tax record keeping.

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.

For more information, refer to 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 or 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
  - 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
  - wholly or principally operated to provide food and drink to employees on working days, and
  - 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 and so on 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
  - 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 and 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.

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 more information, refer to:

- Expense payment fringe benefits
- Property fringe benefits
- Residual fringe benefits.

More information

- Taxation Ruling
  - TR 2007/12 - *Fringe benefits tax: minor benefits*.
  - TR 97/17 - *Income tax and fringe benefits tax: entertainment by way of food and drink*.
  - 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 - *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?*

Changes and updates

The following tables detail any major changes and updates made to this chapter.

February 2010

Section	Changes and updates
14.5 Does an exemption apply?	Under heading 'Food and drink consumed on business premises', updated information in attention box.
14.8 How to calculate the taxable value of a meal entertainment fringe benefit	Under 'Details to be included in register', updated information in attention box.
14.9 Common circumstances in which food or drink is provided	Amended text under 'Implications for a taxpaying body' and 'Exempt property benefits'. Updated 'Exempt benefits - minor benefits' and 'Gifts provided to employees at a Christmas party' to reflect the view taken in minor benefits ruling (TR 2007/12).
14.12 Taxable value of recreational entertainment	Addition of information relating to minor benefits exemption under 50-50 split method.
More information	Addition of TR 2007/12. Removal of addendums because chapter links to consolidated version of ruling.

June 2011

Section	Changes and updates
Chapter title	Changed from 'Entertainment' to 'Fringe benefits tax and entertainment'.

December 2011

Section	Changes and updates
14.12 Taxable value of recreational entertainment	Addition of information regarding what is meant by hiring or leasing entertainment facilities. Under 50-50 split method, addition of information in attention box regarding what expense the method can be used for.

Last Modified: Wednesday, 25 January 2012

Chapter 15 - Tax-exempt body entertainment fringe benefits

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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
- 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.

For more on endorsement, refer to Non-profit organisations and fringe benefits tax.

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
- 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.

For more on endorsement, refer to Non-profit organisations and fringe benefits tax.

15.3 Is the benefit entertainment?

To work out whether the benefit provided is entertainment, you need to consider the circumstances in which the benefit was provided. Tax-exempt bodies need to look at the same factors as income tax paying bodies in order to decide if the benefit is entertainment. For information about working out whether a benefit is entertainment, refer to sections **14.1**, **14.2** and **14.3** of Fringe benefits tax and entertainment.

If the benefit is:

- entertainment by way of food or drink, refer to section **15.4**
- recreational entertainment, refer to section **15.12**
- **not** entertainment, refer to section **15.17**.

15.4 Do you provide food or drink that is entertainment?

If you provide entertainment by way of food or drink, take the following steps and actions.

Step	Action	Section 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. If the benefit is not tax-exempt body entertainment, it may be a property, expense payment or residual fringe benefit.	**15.6** **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**



For examples of how the valuation rules apply, refer to section **15.7**.

15.5 Does an exemption apply?

There are only very limited circumstances under which an exemption will apply to entertainment provided by way 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 fringe benefits tax (FBT) when provided by public benevolent institutions (PBIs), health promotion charities (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
- paying or reimbursing expenses incurred by an employee for the above.

Minor benefits exemption



This exemption does not apply to employers who elect to value the entertainment as meal entertainment using the 50-50 split method.

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 (refer to section **20.8** of Fringe benefits tax exempt benefits), for tax-exempt bodies, the exemption is available only where:

- the entertainment provided is incidental to the entertainment provided 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: Light refreshment that are incidental to entertainment provided to outsiders

A tax-exempt body hosts a morning tea at a local café for its sponsors at which they provide finger food, tea, coffee and soft drinks. 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 and 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. The following people attend the dinner:

- senior management of the tax-exempt body
- the employee receiving the award and their family
- representatives from the external organisation presenting the award.

In these circumstances, the minor benefits exemption applies 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 working out 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
- meals on business travel overnight.

For more on the tax deductibility of entertainment expenses, refer to section **14.15** of Fringe benefits tax and entertainment.

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 way FBT applies to food or drink provided in these circumstances is explained.

Providing alcohol generally means entertainment has been provided. However, in a narrow category of situations, you can provide alcohol to an employee without providing entertainment. These situations include where some (but not excessive) alcohol is provided to an employee:

- while they are on business travel overnight
- where providing the 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) if you are providing them to help your employees complete the working day in comfort. In this situation, the food and drink you provide is exempt from FBT under the property exemption if you provide it on your premises. If you provide the food or drink off your premises, you will need to consider the circumstances under which you provide it.

Providing morning or afternoon tea, or light meals to associates of your employees on your premises, is not entertainment. However, providing food and drink in this circumstance is a property fringe benefit. You will need to look at the rules for valuing property fringe benefits in order to work out 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 finger 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. Consider normal business practices to help work out when light meals become entertainment.

The property exemption does not apply to meals you provide under a salary sacrifice arrangement after 7.30pm AEST on 13 May 2008. Existing balances on meal cards as at 7.30pm on 13 May 2008 remained eligible for the property exemption provided they were used by 31 March 2009. Any increase of existing balances after 7.30pm AEST on 13 May 2008 are subject to FBT.

Example: Afternoon tea without alcohol

A tax-exempt body undertakes a research project. When the project is completed, the project participants provide a presentation 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 are provided.

The afternoon tea provided to the employees is exempt from FBT.

Example: Afternoon tea with alcohol

If the afternoon tea described above also included alcohol, it would be considered to have a social context and will be tax-exempt body entertainment. If the employer elects, it could also be meal entertainment instead.

If you provide alcohol at a 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

If you provide full hot meals to employees who are not on overnight business travel, you are providing entertainment. However, the expense you incur to provide full hot meals to employees at an in-house dining facility is an allowable income tax deduction to tax-paying bodies. This means it is not tax-exempt body entertainment.

Tax-paying bodies can only claim an income tax deduction if 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.

The property exemption does not apply to meals you provide under a salary sacrifice arrangement after 7.30pm AEST on 13 May 2008. Existing balances on meal cards as at 13 May 2008 will remain eligible for the property exemption provided they are used by 31 March 2009. Any increase of existing balances after 7.30pm AEST on 13 May 2008 are subject to FBT.

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
- 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
- not open to the public at any time.

When we say 'principally', we mean operation 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, you will also need to consider 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 provides full hot meals to its employees in an in-house dining facility. Some employees consume the meals at their workstations and the meals are not provided under a salary sacrifice arrangement. Although providing the full hot meals to employees is entertainment, 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 neither of the following:

- a canteen, a dining room or a facility similar to a canteen or a dining room
- 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 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 is not provided under a salary sacrifice arrangement and it 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 its 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, are entertainment and tax-exempt body entertainment fringe benefits.

Example

A tax-exempt body hosts a Christmas party for its 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 you provide to your employees at Christmas functions need to be considered separately when you work out whether the minor benefits exemption applies.

For example, hampers or presents you provide at a Christmas function are not considered to be entertainment. As these are not treated as tax-exempt body entertainment benefits, you can consider the minor benefits

exemption. For example, if you give each of your employees a hamper at a particular Christmas function, each hamper is an exempt minor benefit if they cost less than $300 each and you meet the other conditions of the minor benefits exemption.

Before 1 April 2007, the minor benefits threshold was less than $100.

Food and drink provided to employees while on overnight business travel

If you provide food or drink, including some alcohol, to your employee while they are on overnight business travel, 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 overnight business travel, the food or drink you provide 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 overnight business travel - not entertainment

Two employees of a tax-exempt body dine together while travelling on business overnight and are later 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; rather, it 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 overnight business travel - 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 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 consider the circumstances of the situation and what duties are being performed by your employee in order to work out 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 through a number of examples.

Circumstance in which food or drink provided	Meal entertainment Yes/No	Fringe benefits tax arises?		
		For	For	For

		employees **Yes/No**	**associates** **Yes/No**	**clients** **Yes/No**
At a social function - eg a staff Christmas party (either on or off business premises)	Yes	Yes	Yes	No
In an in-house dining facility - not at a social function	Yes/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 (on business premises)	No	No	Yes	No
At a social function or business lunch (either on or off business premises)	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 overnight business travel dining with an employee not on overnight business travel - employer pays for all meals Travelling employee's meal Non-travelling employee's meal	 No Yes	 No Yes		
Employee on overnight business travel dining with a client who is not on overnight business travel Travelling employee's meal Client's meal	 No Yes	 No		 No

*Depending on what is provided, the food or drink may or may not amount to meal entertainment. However, if you provide full hot meals at an in-house dining facility (not at a social function), this will be a property benefit and the property exemption will apply (refer to section **15.7**).

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 work out 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 can 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 must classify all fringe benefits arising from the provision of meal entertainment during the FBT year as meal entertainment fringe benefits.

When we say provision of meal entertainment fringe benefits, we mean any of the following:

- providing entertainment by way of food or drink
- providing accommodation or travel connected with such entertainment
- paying or reimbursing expenses incurred by an employee for the above.

Providing meal entertainment does not include providing entertainment by recreation.

If you elect to classify meal entertainment you provide as a meal entertainment fringe benefit, the meal entertainment 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 your 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. For example, this could 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.

For more on how to calculate the taxable value of a meal entertainment fringe benefit, refer to section **14.8** of Fringe benefits tax and entertainment.

15.12 Do you provide recreational entertainment?

Recreational entertainment includes amusement, sport and similar leisure time pursuits. Examples include a game of golf, theatre or movie tickets, a joy flight or a harbour cruise.

If you provide recreational entertainment to your employees, take the following steps and actions.

Step	Action	Section 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 recreational entertainment you provide.

PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services

Where you provide benefits that are wholly or partly attributable to entertainment facility leasing expenses, they are exempt from FBT when provided by PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services.

Generally, the transport to and from an entertainment facility will be a separate benefit that will not be part of the entertainment facility leasing expense. The transport in these circumstances would not be a benefit that is partly or wholly attributable to entertainment facility leasing expenses.

However, for example, the reimbursement of the cost incurred by an employee in purchasing an all-inclusive package from a travel agent that includes both the travel and the hire or lease of holiday accommodation is a single tax-exempt body entertainment benefit. The benefit is one whose taxable value is partly attributable to entertainment facility leasing expenses being the lease or hire of the holiday accommodation. As the tax-exempt body entertainment benefit is partly attributable to entertainment facility leasing expenses, the whole of the tax-exempt body entertainment benefit will be exempt from FBT.

The entertainment facility leasing expenses that are exempt from FBT for these purposes can be incurred by you or your employee.

For more on entertainment facility leasing expenses, refer to section **14.12** of Fringe benefits tax and entertainment.

Minor benefits exemption

This exemption does not apply if you elect to value entertainment facility leasing expenses using the 50-50 split method.

Depending on the standard of entertainment you provide, 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 (refer to section **20.8** of Fringe benefits tax exempt benefits), for tax-exempt bodies, the exemption is available only where either of the following apply:

- the entertainment you provide is incidental to entertainment you provide to outsiders and does not consist of a meal other than light refreshments
- 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: Entertainment you provide that is incidental to entertainment you provide 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 the same as 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 can 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 you are due to lodge your FBT return with us or, if you do not have to lodge a return, by 21 May.

There is no need to notify us of the method you chose as your business records are sufficient evidence of this.

15.15 Keep appropriate records

You should record information relating to tax-exempt body entertainment so the taxable value of the fringe benefit can be calculated. You should record all of the following:

- the date you provided the entertainment
- details of the recipient of the entertainment - for example, whether they are an employee, associate of the employee or another person
- the cost of the entertainment
- the kind of entertainment provided
- details of where the entertainment is provided.

For more information, refer to Fringe benefits tax record keeping.

15.16 Reporting requirements

Entertainment you provide 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. This means 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. This means they are not reportable.

Other types of recreational entertainment are subject to the reporting requirements. Examples include tickets you provide to musicals and green fees for attendance at golf days.

For more information, refer to Reportable fringe benefits.

15.17 Do you provide a benefit that is neither entertainment nor tax-exempt body entertainment?

Where the benefit you provide is neither entertainment nor tax-exempt body entertainment, you must take the following steps and actions.

Step	Action	Section reference
1	Work out whether it is an expense payment, property or residual benefit	**15.18**

2	Work out 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	Fringe benefits tax record keeping
4	If required, report an amount on the employee's payment summary	Reportable fringe benefits

15.18 Is the benefit an expense payment, property or residual benefit?

Where the benefit you provide is neither entertainment nor 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
- 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. 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 more information refer to:

- Expense payment fringe benefits
- Property fringe benefits
- Residual fringe benefits.

15.19 If the benefit is neither entertainment nor 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 that 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 you provide to your employee is exempt in these circumstances. Food and drink you provide to an associate of your employee in these circumstances is still subject to FBT.

The property exemption does **not** apply to meals you provide under a salary sacrifice arrangement after 7.30pm AEST on 13 May 2008. Existing balances on meal cards as at 7.30pm on 13 May 2008 remained eligible for the

property exemption provided they were used by 31 March 2009. Any increase of existing balances after 7.30pm AEST on 13 May 2008 are 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 you provide, the benefit may qualify for the minor benefits exemption.

For more on the minor benefits exemption, refer to section **20.8** of Fringe benefits tax exempt benefits.

More information

Taxation Ruling (TR):

- TR 2007/12 - Fringe benefits tax: minor benefits.
- TR 97/17 - Income tax and fringe benefits tax: entertainment by way of food or drink.
- 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 - 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*?
- 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?

Changes and updates

The following tables detail any major changes and updates made to this chapter.

February 2010

Section	Changes and updates
15.5 Does an exemption apply?	Under 'Minor benefits exemption', addition of information regarding 50-50 split method.
15.7 Common circumstances in which food or drink is provided	Updated information under 'Morning and afternoon teas and light meals' and 'Meals provided to employees at in-house dining facilities' to reflect changes to property exemption. Associated in-house dining facility examples also updated for clarity. Updated information under 'Gifts provided to employees at Christmas parties' to reflect view in TR 2007/12.
15.8 FBT implications of tax-exempt bodies providing food and drink	Added information under table.
15.13 If the benefit is recreational entertainment, does an exemption apply?	Under 'Minor benefits exemption', added information in attention box.
15.19 If the benefit is not entertainment, or tax-exempt body entertainment, does an exemption apply?	Updated information under 'Property benefit exemption' to include information about where meals are provided under a salary sacrifice arrangement.
More information	Addition of TR 2007/12.

	Removed addendums because document links to consolidated version of ruling.

September 2011

Section	Changes and updates
15.8 FBT implications of tax-exempt bodies providing food and drink	Information clarified so that morning and afternoon teas not provided on the business premises are not included in the table. Previously, the structure of the table implied that the treatment was the same on and off the business premises.

December 2011

Section	Changes and updates
15.13 If the benefit is recreational entertainment, does an exemption apply?	Addition of information under 'PBIs, HPCs, public hospitals, non-profit hospitals and public ambulance services'.

Last Modified: Wednesday, 25 January 2012

Chapter 16 - Car parking fringe benefits

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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 during a fringe benefits tax (FBT) year only if **all** of the following conditions are satisfied:

- a car is parked at premises that are owned or leased by, or 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, on the first business day of the FBT year, charge a **representative fee** for all-day parking that is more than the **car parking threshold**.

If...	then...
• a commercial car parking station commences to operate during the FBT year • has not charged a fee for all day parking on the first business day of that FBT year, and • the other conditions of a car parking fringe benefit are met	a car parking fringe benefit will **not** arise during that FBT year. However, car parking fringe benefits may arise during the following FBT year.
• a commercial car parking station	a car parking fringe benefit will **not** arise

commences to operate on the first business day of the FBT year • does not charge a fee for all day parking that is more than the car parking threshold, and • the other conditions for a car parking fringe benefit are met	during that FBT year.
• a commercial car parking station commences to operate on the first business day of the FBT year • charges a fee for all day parking that is more than the car parking threshold • ceases to operate during that FBT year, and • there are no other commercial car parks within a one kilometre radius that charge a fee more than the car parking threshold	car parking fringe benefits are only provided during the period that the commercial car park had operated.
• a commercial car parking station commences to operate on the first business day of the FBT year • charges a fee for all day parking that is more than the car parking threshold • ceases to operate during that FBT year, and • there are other commercial car parks within a one kilometre radius that charge a fee more than the car parking threshold	car parking fringe benefits will continue to arise while there is a commercial car park within a one kilometre radius that charges a fee that is more than the car parking threshold.

Car

The meaning of 'car' is described in section **7.1** of Car fringe benefits.

Commercial parking station

A commercial car parking station is one that charges a fee for all-day 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 from 2003 to 2013.

Year ending 31 March	Threshold
2013	$7.83
2012	$7.71
2011	$7.46
2010	$7.25
2009	$7.07
2008	$6.78
2007	$6.62
2006	$6.43
2005	$6.28
2004	$6.16
2003	$5.96

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 $7.07 a day on 1 April 2008.

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 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:

1. **Commercial parking station method** - you provided.

2. **Market value method** - you must keep records of the actual number of car parking fringe benefits provided.

3. **Average cost method** - you must keep records of the actual number of car parking fringe benefits provided.

4. **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.

5. **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 2009 FBT year and also during the three-week period, parking station number one charges $5.50 a day and parking station number two charges $8.00 a day. Since there is a car parking station that charged more than the car parking threshold of $7.07 on 1 April 2008, 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 x $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 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 include all of the following details:

- 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

- 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
- 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
- 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 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 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 include all of the following details:

- 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
- 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 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
- 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 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 include all of the following details:

- 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
- 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
- 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 x 52/12 x 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 sections **16.3** and **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 2008 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 x $10) and the value of B is 183 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 x 52/12 x B/366

$2,500 x 52/12 x 182/366

= $5,387.06

Election

If you elect to use the 12-week register method, you must hold a valid 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 either:

- 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
- entries are not made as soon as practicable.

Details to be included in register

You must include all of 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
- 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 (refer to sections **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 x B/366 x 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) **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 in which the car parking space is available for use by any employee who is covered by the election, and ends on the last day in the FBT year in which the car parking space is available for use by any employee who is covered by the election.
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:

1. counting the number of spaces made available to employees covered by the election at the beginning of the parking period
2. counting the number of spaces made available to employees covered by the election at the end of the parking period
3. 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 2008 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 x B/366 x 288 Where: **A** = the amount that would be the taxable value 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 x 182/366 x 228 = $1,133.77
2	Obtain the total of all the amounts calculated under step 1. $1,133.77 x 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 x 4) / 4 x 3 $4,535.08 / 4 x 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 x 26 weeks x 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 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 (refer to section **9.9** of Expense payment fringe benefits).

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
- benefits provided by certain employers.

Residual benefits

Parking you provide that does not satisfy all of the criteria set out in section **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 section **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

All of 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
- 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
- either
  - you were a small business entity for the last income year before the relevant FBT year
  - 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.



There are special FBT transitional rules which mean an entity can be considered to be a small business entity for the 2005-06 and 2006-07 income years as if the small business entity provisions had applied to those earlier years. From 1 April 2007 such an entity will be entitled to utilise the concession provided it also meets the first two dot point requirements.

More information

- Taxation Ruling TR 96/26 - Fringe benefits tax: car parking fringe benefits.
- Taxation Determination (TD)
    - TD 2011/14 - 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 2011?
    - TD 2012/9 - 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 2012?

Changes and updates

The following tables detail any major changes and updates made to this chapter.

June 2012

Section	Changes and updates
16.1 What is a car parking fringe benefit?	Updated car parking thresholds table
More information	Most recent tax determinations included. Removed reference to older tax rate determinations.

Last Modified: Friday, 6 July 2012

Chapter 17 - Property fringe benefits

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

17.1 What a property fringe benefit is

A property fringe benefit arises when you (the employer) provide an employee with free or discounted property.

For fringe benefit tax (FBT) purposes, **property** includes:

- goods (including gas and electricity, unless provided through a reticulation system) and animals
- real property, such as land and buildings
- rights to property, 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 another 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
- 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.

The alternative valuation rules are summarised below:

If..	Then..
The benefit is an in-house property fringe benefit provided under a salary packaging arrangement	The taxable value is: ◦ the amount that the employee could reasonably be expected to pay to obtain the property under an arm's length transaction less (minus) ◦ any employee contribution Note: Transitional rules may apply
The benefit is an in-house property fringe benefit not provided under a salary packaging arrangement	The valuation rule depends on whether the property: ◦ was purchased for resale or was manufactured ◦ is identical to property sold by the provider in the ordinary course of business ◦ is normally sold directly to the public or to retailers who sell the goods to the public
The benefit is an external property fringe benefit	The valuation rule depends on whether you, or an associate (rather than a third party), incurred expenditure in relation to the provision of the property.

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) 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
- 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.

Property which is 'identical' or 'similar'

Property you provide to your employee is identical to property you sell in the ordinary course of business when the differences between the two items are small.

Property you provide to your employee is similar to property you sell in the ordinary course of business where the two items are alike and generally resemble each other.

Goods provided under a salary sacrifice arrangement

Changes have been made to the FBT law so that from 22 October 2012 onwards, the taxable value of an in-house property fringe benefit provided under a salary packaging arrangement is the amount the employee could reasonably be expected to have been required to pay to purchase the property from the provider under an arm's length transaction (that is, market or fair value). However, transitional rules may apply that affect the commencement date of the changes.

Example: **Taxable value of an in-house property fringe benefit**

Kane works at the Geelong Meat Works abattoir. As part of his annual remuneration negotiations, he agrees to a reduction in his salary in exchange for a meat pack for Christmas which includes hams, steaks and other choice cuts. The meat pack is an in-house property fringe benefit.

The taxable value of the benefit would have previously been 75% of the lowest price paid for the meat, which would have been the wholesale price.

However, from 22 October 2012 the taxable value of the benefit provided to Kane would be the market value of

the meat. As Kane is not a wholesaler, the taxable value would therefore be the retail price of the meat.

Salary packaging arrangements

Salary packaging arrangements (also commonly referred to as salary sacrifice or total remuneration packaging) means arrangements where either:

- You enter into an agreement with your employee to have their salary and wages reduced (or sacrificed) in order to receive a benefit
- A reduction in salary is not negotiated, but you give your employee a benefit as part of their employment contract, and it is reasonable to conclude that the salary and wages they would have received would have been greater if the benefit wasn't provided.

Example: **Negotiated salary packaging arrangement**

Felicity has just started working for a car company. In negotiating her remuneration package she agrees with her new employer to forego $25,000 of her yearly salary in order to receive the use of a car.

As she has entered into an agreement to reduce her salary and wages, Felicity would be taken to have entered into a salary packaging arrangement.

Example: **Non-negotiated salary packaging arrangement**

McKenzie has started employment with an IT firm. His job was previously advertised as having a total remuneration package of $100,000 per year.

McKenzie only receives $95,000 in salary and wages but is given by his employer, free of charge, gaming and photography software with a retail value of $5,000.

In this case, while McKenzie has not entered into a separate agreement to reduce his salary and wages, the salary and wages he would have received would clearly have been greater if the benefit had not been provided. Therefore, McKenzie has entered into a salary packaging arrangement.

Transitional rules

Transitional rules apply where an existing salary packaging arrangement was entered into before the 22 October 2012.

Table: **How the transitional rules apply**

If...	**Then...**
The benefit was provided before 22 October 2012	The previous valuation rules apply.
◦ The benefit is provided on or after the 22 October 2012; and ◦ The benefit is provided under an existing salary packaging arrangement entered into before 22 October 2012	The previous valuation rules continue to apply up to, and including, the earlier of: ◦ 31 March 2014 ◦ The date of a material variation to the existing salary packaging arrangement
The benefit is provided under a salary packaging arrangement entered into on or after 22 October 2012	The transitional rules do not apply.

Meaning of 'existing salary packaging arrangement'

An existing salary packaging arrangement means a salary packaging arrangement that was, before the 22 October 2012, both:

- agreed to (that is, you and your employee agree to conditions of the arrangement), and
- entered into (that is, the arrangement was given legal force).

There is no requirement for the actual reduction of salary or wages of the provision of the benefit to occur before 22 October 2012, only that the arrangement to do so was entered into and had legal force before 22 October 2012.

Example: **Existing salary packaging arrangement where salary deductions start after 22 October 2012**

An employer offers a salary packaging arrangement to employees which must be taken up before 22 October 2012. The benefits will be available to employees during the months of December 2012 and January 2013. However, the pre-tax salary deductions do not commence until the employee has submitted a claim for expenses incurred during the relevant period.

An employee accepted the offer before 22 October 2012 and the employee receives the reimbursement for expenses before 1 April 2014. This arrangement would then be covered by the transitional provisions.

Example: **Existing salary packaging arrangement where employer offers arrangement and employee takes it up before 22 October 2012**

A retail employer provides its employee with the option to salary package certain in-house property fringe benefits. There is no end date for the offer to salary package and no details on the terms or conditions that apply to particular employees.

Harold works for the retail employer and has previously used the salary packaging offer to purchase a coffee machine that his employer sells. He is now deciding whether to take up the offer to salary package a kayak which his employer sells. On 18 October 2012, he decides to take up the offer and fills in the requisite forms that lock him into the salary packaging arrangement.

As he has entered into the pre-existing offer for salary packaging (in respect to the kayak) and has an agreement that is binding before 22 October 2012, Harold's benefits would be covered by the transitional provisions.

Example: **Existing salary packaging arrangements where employer offers arrangements and employee does not take it up before 22 October 2012**

As per the example above, with the exception that Harold delays his decision and decides on 24 October 2012 that he wants to take up the salary packaging offer.

In this case, while his employer has offered a salary packaging arrangement before 22 October 2012 and despite the fact that he entered into a previous arrangement for the purchase of the coffee machine, Harold does not have a binding agreement in place in respect to the packaging for a kayak. For that reason, Harold's benefits would not be covered by the transitional provisions.

Material variation to an existing salary packaging arrangement

Where an existing salary packaging arrangement is materially altered or varied on or after 22 October 2012, it will no longer be subject to the transitional arrangements.

In determining whether an alteration or variation is material to the existing salary packaging arrangement, regard must be had to the particular wording of the agreement. What is considered material will often depend on the facts and circumstances of the arrangement.

Alterations or variations of an existing salary packaging arrangement that would more than likely be considered material include, but are not limited to:

- change of employer
- alteration of the fixed end date of the arrangement; and
- variation to the types of benefits covered under the arrangement.

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 another 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 the 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, an item identical to goods sold to wholesalers). The manufacturer usually sells the item for $1,000, including goods and services tax (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 arm's 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% x $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% x $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 following reduced by any employee contribution:

- the arm's length purchase price of the goods to you
- 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.

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 sales tax or 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 accessed under a salary packaging arrangement, 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 section **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.

Benefit provider	Benefit provided	Taxable value
You (or an associate)	Property you purchased under an	The cost price to you reduced by

	arm's length transaction at or about the time you provided the benefit	any employee contribution
You (or an associate) incur expenditure to a provider under an arm's length transaction but you do not provide the benefit	Property	Your expenditure amount reduced by any employee contribution

Where neither of the above rules apply, the taxable value is the amount the employee could reasonably be expected to pay for 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 both:

- the property had not been provided as a fringe benefit
- 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 would be nil, regardless of the amount of the 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 (refer to section **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
- not entitled to an income tax deduction 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, to work out the taxable value of a property fringe benefit, you:

- subtract the amount of any actual employee contribution from the amount that would have been the taxable value if no employee contribution had been made, then
- subtract 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	$500 x 80%

	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 ◦ been entitled to a deduction for business use.	business use = $400
	However, the: ◦ employer calculated the amount of the employee contribution after taking into account the intended business use ◦ the otherwise deductible rule applies. This means the employee's income tax deduction is limited. To calculate the amount: ◦ work out 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 ◦ subtract the amount of the allowance that was made.	($500 x 80%) - ($500 x 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

17.5A The otherwise deductible rule and jointly provided property fringe benefits

As described at section **17.5**, the 'otherwise deductible' rule only applies if the recipient of a benefit is the employee. The FBT law also contains a design feature so that property fringe benefits provided jointly to an employee and an associate are deemed to be provided solely to the employee. In cases where the otherwise deductible rule also applies, it will only apply to the employee's share of any deductible amount and specifically excludes the associate's share of any deductible amount.

If	**then**
the property fringe benefit was provided or a salary sacrifice arrangement relating to the benefit was entered into before 7.30pm AEST on 13 May 2008	the previous law will continue to apply until 1 April 2009.
the property fringe benefit was provided or the salary sacrifice arrangement relating to the benefit was entered into from 7.30pm (AEST) on 13 May 2008	the amended law applies.

Previous law

An employer could reduce the taxable value of a property fringe benefit provided jointly to an employee and their associate in relation to an income producing asset owned by both the employee and their associate, to the extent that the asset is applied to produce assessable income by both persons (unadjusted notional deduction).

Amended law

You must adjust the taxable value of a fringe benefit determined under the previous law (unadjusted notional

deduction) by only allowing the employee's share of the deduction.

That is, the otherwise deductible amount is calculated as:

Unadjusted notional deduction x Employee's percentage of interest

In this calculation:

- the unadjusted notional deduction is the deduction calculated as if the amended law did not apply
- the employee's percentage of interest is the employee's (not the associate's) interest in the asset that is
  - the property
  - applied or used for the purpose of producing assessable income of the employee.

Example: Previous law applies

An employer provides an employee with curtains worth $250 for their rental property. The rental property is:

- owned jointly by the employee and their spouse for the full FBT year
- rented during this time and the curtains are an external property benefit.

There is no employee contribution.

If the curtains were provided on 1 April 2008, the otherwise deductible rule would apply and the taxable value can be reduced to nil.

Example: Amended law applies

If the curtains were provided on 1 June 2008, the otherwise deductible rule would still apply, but the taxable value could only be reduced by the employee's share in the income producing asset, that is $250 x 50% = $125. The taxable value of the property benefit would therefore be $250 - $125 = $125.

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 *Property benefit declaration* by the employee, it must be in a form approved by the Commissioner of Taxation (refer to Declarations).

Travel diary

A 'travel diary' is a diary or similar document that must be obtained from the employee where the property is provided for either of the following:

- for travel within Australia for more than five consecutive nights, 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
- for travel outside Australia for more than five consecutive nights.

In determining whether a travel diary needs to be kept, you need to look at the number of nights the employee is away from home. The number of nights away from home includes transit time.

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 both of the following apply:

- the employee is performing duties of employment as a member of an aircrew travelling outside Australia
- the property provided is food or drink, or is for accommodation, or otherwise incidental to the travel.

Employee declaration

You must obtain a *Property benefit declaration* in the form approved by the Commissioner of Taxation (refer to Declarations), except where any of the following apply:

- 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
- the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

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 property benefit declaration* (refer to Declarations).

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% is significant)
- it is 'identical' to the fringe benefit for which the declaration was first made.

Benefits are 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
- 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 writing in a form approved by the Commissioner of Taxation. 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.

17.7 Reduction in taxable value where property that would have been deductible to the employee is provided in relation to a car

Special rules apply where you provide a property fringe benefit in relation to a car owned or leased by the employee. You must use these special rules to determine 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 section **17.5**). The differences arise from the:

- extent to which the car is used for business or employment-related purposes
- type of evidence available to substantiate that use.

The first method is substantiated by means of log book records and/or odometer records. The second and third methods are substantiated by an employee declaration only. For full details and the appropriate declaration, refer to Employee cars - applying the 'otherwise deductible' rule. The employee declaration shown in section **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

sections **17.2** to **17.4**. Where the otherwise deductible rule applies, you then reduce the taxable value as explained in section **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:

- remote area residential fuel
- remote area housing assistance
- relocation - meals
- in-house fringe benefits - tax-free threshold
- living away from home - food provided.

For more on the reductions, refer to Reductions in fringe benefit taxable value.

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 section **20.6** of Fringe benefits tax exempt benefits 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 (refer to Tax-exempt body entertainment fringe benefits)
- employers who choose to use the meal entertainment provision and calculate the taxable value under the 50:50 split method or the 12-week register method (refer to Fringe benefits tax and entertainment)
- meals provided under a salary sacrifice arrangement.

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 (refer to section **20.7** of Fringe benefits tax exempt benefits).

More information

For more information, refer to:

- 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 Ruling TR 2007/12 - Fringe benefits tax: minor benefits.

Changes and updates

The following tables detail any major changes and updates made to this chapter.

November 2013

Section	Changes and updates
17.2 Taxable value - overview of valuation rules	Addition of information summarising the valuation rules
17.3 Taxable value - in-house property fringe benefits	Addition of information regarding the valuation rules for property provided under a salary sacrifice arrangement

Last Modified: December 2013

Chapter 18 - Residual fringe benefits

Remember, a fringe benefit may be provided by another person on behalf of an employer. It may also be provided to another person on behalf 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 goods and services tax (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 sections **18.4** to **18.6**. These rules are summarised in the following table:

If..	Then..
The benefit is an in-house residual fringe benefit provided under a salary packaging arrangement	The taxable value is: ◦ the amount the employee could reasonably be expected to pay to obtain the benefit under an arm's length transaction less (minus) ◦ any employee contribution Note: Transitional rules may apply
The benefit is an in-house residual fringe benefit, but it is not provided under a salary packaging arrangement	The valuation rule depends on whether the identical benefits were provided by the benefit provider: ◦ In the ordinary course of business to members of the public under arm's length transactions ◦ in similar circumstances; and ◦ subject to identical terms and conditions.
The benefit is an external residual fringe benefit	The valuation rule depends on whether you, or an associate (rather than a third party), incurred expenditure in relation to the provision of the benefit.

Where the 'otherwise deductible' rule applies, you reduce the taxable value, as explained in section **18.7**.

If a residual fringe benefit is of a type that attracts any of the concessions listed in section **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.

For more on GST and fringe benefits tax (FBT), refer to What is fringe benefits tax?

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 or facilities 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 doesn't 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 - not accessed under a salary packaging arrangement

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.

Taxable value of in-house residual fringe benefits - accessed under a salary packaging arrangement

Changes have been made to the FBT law so that from 22 October 2012 onwards, the taxable value of an in-house residual fringe benefit provided under a salary packaging arrangement is its notional value at the comparison time, reduced by any recipients contribution. However, transitional rules may apply that affect the commencement date of the changes.

Example: Taxable value of an in-house residual fringe benefit

Cecilia works for an appliance rental franchise. As part of her remuneration, she agreed to salary package the rental of a flat screen television and video gaming console for a six month period.

Ordinarily her employer values the rental for the purposes of FBT at 75% of the lowest price paid by other customers.

However, from 22 October 2012, the employer would instead determine the taxable value on the basis of its notional value (which is its market value) and is therefore determined to be the retail price of the rental contract.

Salary packaging arrangements

Salary packaging arrangements (also commonly referred to as salary sacrifice or total remuneration packaging) are arrangements where either:

- You enter into an agreement with your employee to have their salary and wages reduced (or sacrificed) in order to receive a benefit; or
- A reduction in salary is not negotiated, but you give your employee a benefit as part of their employment contract, and it is reasonable to conclude that the salary and wages they would have received would have been greater if the benefit wasn't provided.

Example: Negotiated salary packaging arrangement

Felicity has just started working for a car company. In negotiating her remuneration package she agrees with her new employer to forego $25,000 of her yearly salary in order to receive the use of a car.

As she has entered into an agreement to reduce her salary and wages, Felicity would be taken to have entered into a salary packaging arrangement.

Example: Non-negotiated salary packaging arrangement

McKenzie has started employment with an IT firm. His job was previously advertised as having a total remuneration package of $100,000 per year.

McKenzie only receives $95,000 in salary and wages but is given by his employer, free of charge, gaming and photography software with a retail value of $5,000.

In this case, while McKenzie has not entered into a separate agreement to reduce his salary and wages, the salary and wages he would have received would clearly have been greater if the benefit had not been provided.

Therefore, McKenzie has entered into a salary packaging arrangement.

Transitional rules

Transitional rules apply where an existing salary packaging arrangement was entered into before the 22 October 2012.

Table: How the transitional rules apply

If..	**Then..**
The benefit was provided before 22 October 2012	The previous valuation rules apply.
◦ An existing salary packaging arrangement was entered into before 22 October 2012, and ◦ The reduction of salary and wages occurred on or after 22 October 2012 and/or ◦ The benefit was provided on or after the 22 October 2012	The previous valuation rules continue to apply up to, and including, the earlier of: ◦ 31 March 2014 ◦ The date of a material variation to the existing salary packaging arrangement
A salary packaging arrangement was entered into on or after 22 October 2012	The transitional rules do not apply.

Meaning of 'existing salary packaging arrangement'

An existing salary packaging arrangement means a salary packaging arrangement that, before the 22 October 2012, was both:

- agreed to (that is, the employer and employee agree to conditions of arrangement) and
- entered into (that is, the arrangement was given legal force).

There is no requirement for the actual reduction of salary or wages of the provision of the benefit to occur before 22 October 2012, only that the arrangement to do so was entered into and had legal force before 22 October 2012.

Example: Existing salary packaging arrangement where salary deductions start after 22 October 2012

An employer offers a salary packaging arrangement to employees which must be taken up before 22 October 2012. The benefits will be available to employees during the months of December 2012 and January 2013. However, the pre-tax salary deductions do not start until the employee has submitted a claim for expenses incurred during the relevant period.

An employee accepted the offer before 22 October 2012 and the employee receives the reimbursement for expenses before 1 April 2014. This arrangement would be covered by the transitional provisions.

Example: Existing salary packaging arrangement where employer offers arrangement and employee takes it up before 22 October 2012

A retail employer provides its employee with the option to salary package certain in-house property fringe benefits. There is no end date for the offer to salary package and no details on the terms or conditions that apply to particular employees.

Harold works for the retail employer and has previously used the salary packaging offer to purchase a coffee machine that his employer sells. He is now deciding whether to take up the offer to salary package a kayak which his employer sells. On 18 October 2012, he decides to take up the offer and fills in the requisite forms that lock him into the salary packaging arrangement.

As he has entered into the pre-existing offer for salary packaging (in respect to the kayak) and has an agreement that is binding before 22 October 2012, Harold's benefits would be covered by the transitional provisions.

Example: Existing salary packaging arrangement where employer offers arrangement and employee does not take it up before 22 October 2012

As per the example above, with the exception that Harold delays his decision and decides on 24 October 2012 that he wants to take up the salary packaging offer.

In this case, while his employer has offered a salary packaging arrangement before 22 October 2012 and despite the fact that he entered into a previous arrangement for the purchase of the coffee machine, Harold does not have a binding agreement in place in respect to the packaging for a kayak. For that reason, Harold's benefits would not be covered by the transitional provisions.

Material variation to an existing salary packaging arrangement

Where an existing salary packaging arrangement is materially altered or varied on or after 22 October 2012, it will no longer be subject to the transitional arrangements.

In determining whether an alteration or variation is material to the existing salary packaging arrangement, regard must be had to the particular wording of the agreement. What is considered material will often depend on the facts and circumstances of the arrangement.

Alterations or variations of an existing salary packaging arrangement that would more than likely be considered material include, but are not limited to:

- change of employer
- alteration of the fixed end date of the arrangement; and
- variation to the types of benefits covered under the arrangement.

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
- 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 or privilege under an arm's length transaction, the taxable value is the cost price to you, less any employee contribution.

If the above rule doesn't 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 section **7.6** of Car fringe benefits, the right to use the vehicle is a residual benefit.

The legislation doesn't 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 log book 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 log book 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:

1. **Operating cost method** - this is the same as the calculation for cars outlined in section **7.5** of Car fringe benefits.
2. **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 2010 to 2014 FBT years:

Engine capacity	Rate per kilometre 2010	Rate per kilometre 2011	Rate per kilometre 2012	Rate per kilometre 2013	Rate per kilometre 2014
0 to 2,500cc	44	45	46	48	49
Over 2,500cc	53	54	55	57	59
Motor cycles	13	14	14	14	15

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 *Residual benefit declaration - vehicles other than cars* from the employee (refer to Declarations). The declaration must be in a form approved by the Commissioner of Taxation, 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.

Example

An employee takes their employer's one-tonne utility with an engine capacity in excess of 2,500cc 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 doesn't make any employee contributions.

The vehicle travelled a total of 52,000 kilometres during the FBT year ending 31 March 2014 and the operating costs, including deemed interest and depreciation, were $20,080.

Cents per kilometre method

Taxable value = A x 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 x 59 cents per km) - $0

= $3,068

Operating cost method

Taxable value = A x 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 x 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
- the employee acted as a consumer or member of the public in purchasing the service or privilege that 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 (refer to section **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 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

less

- the amount of any actual employee contribution

less

- 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 x 80%) - ($500 x 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

18.7A The otherwise deductible rule and jointly provided residual fringe benefits

As described at 18.7, the 'otherwise deductible' rule only applies if the recipient of a benefit is the employee. The FBT law also contains a design feature so that residual fringe benefits provided jointly to an employee and an associate are deemed to be provided solely to the employee. In cases where the otherwise deductible rule also applies, it will only apply to the employee's share of any deductible amount and specifically excludes the associate's share of any deductible amount.

If:	**then**:
the residual fringe benefit was provided or a salary sacrifice arrangement relating to the benefit was entered into before 7.30pm (AEST) on 13 May 2008	the previous law will continue to apply until 1 April 2009.
the residual fringe benefit was provided or the salary sacrifice arrangement relating to the benefit was entered into from 7.30pm (AEST) on 13 May 2008	the amended law applies.

Previous law

An employer could reduce the taxable value of a residual fringe benefit provided jointly to an employee and their associate in relation to an income producing asset owned by both the employee and their associate, to the extent that the asset is applied to produce assessable income by both persons (unadjusted notional deduction).

Amended law

You must adjust the taxable value of a fringe benefit determined under the previous law (unadjusted notional deduction) by only allowing the employee's share of the deduction.

That is, the otherwise deductible amount is calculated as:

unadjusted notional deduction x employee's percentage of interest

Where:

- the unadjusted notional deduction is the deduction calculated as if the amended law did not apply
- the employee's percentage of interest is the employee's (not the associate's) interest in the asset that
  - the residual fringe benefit relates to
  - is applied or used for the purpose of producing assessable income of the employee.

Example: previous law applies

An employer provides an employee with tradesman services (not in-house) worth $2,000 to do repairs on their rental property. The rental property is owned jointly by the employee and their spouse for the full FBT year and is rented during this time. The tradesman services are an external period residual benefit. There is no employee contribution.

If the tradesman services were provided in April 2008, the otherwise deductible rule would apply and the taxable value can be reduced to nil.

Example: amended law applies

If the tradesman services were provided in June 2008, the otherwise deductible rule would still apply, but the taxable value could only be reduced by the employee's share in the income producing asset - that is $2,000 x 50% = $1,000. Therefore, the taxable value of the property benefit would be $2,000 - $1,000 = $1,000.

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 *Residual benefit declaration* by the employee, it must be in a form approved by the Commissioner of Taxation (refer to Declarations).

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 more than five 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)
- for travel outside Australia for more than five consecutive nights.

In determining whether a travel diary needs to be kept, you need to look at the number of nights the employee is away from home. The number of nights away from home includes transit time.

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

If the provision of the residual benefit is covered by an annual 'no private use declaration - residual benefits' (refer section **20.3** of Fringe benefits tax exempt benefits), the requirement to obtain a travel diary is waived. That is, if the residual benefit arises from the use of property which is subject to a consistently enforced prohibition on private use and would result in a taxable value of nil, you will then be able to make an annual no private use declaration.

Such a declaration would state that the benefits were provided only for employment related purposes and that there was no private portion.

Employee declaration

You must obtain a *Residual benefit declaration* in a form approved by the Commissioner except where:

- the residual benefit is used exclusively in the course of performing employment-related duties (for example, protective clothing and 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
- the provision of the fringe benefit is covered by a recurring fringe benefit declaration.

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 residual fringe benefit declaration* (refer to Declarations).

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)
- 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
- 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.

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.

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 section **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 log book records and/or odometer records. The second and third methods are substantiated by an employee declaration only. For full details and the appropriate declaration, refer to Employee cars - applying the 'otherwise deductible' rule. The employee declaration shown in section **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:

- remote area residential fuel
- remote area holiday transport
- overseas employment holiday transport
- relocation - temporary accommodation
- in-house fringe benefits - tax-free threshold
- overseas employees - education of children.

For more on the reductions, refer to Reductions in fringe benefit taxable value.

18.11 Exempt residual benefits

The following is a list of exemptions that may apply to residual fringe benefits:

- use of motor vehicles
- use of public transport
- use of recreational or child care facilities that are located on employer's business premises
- use of property that is located on employer's business premises
- living away from home - leasing of household goods
- accommodation where employee lives away from home
- 'fly-in fly-out' transport for oil rig and remote area employees
- priority of access to child care facility
- no-private-use declaration
- incidental benefits arising from use of employer's motor vehicle
- employment interviews and selection tests - transport
- relocation - removal and storage of household effects
- relocation - sale or acquisition of dwelling
- relocation - connection or reconnection of certain utilities
- relocation - transport
- parking facilities for motor vehicles
- small business car parking
- newspapers and periodicals
- compensable work-related trauma (including workers' compensation insurance cover)
- in-house health care facilities
- travel in a foreign country to obtain medical treatment
- travel for compassionate reasons
- occupational health and migrant language training
- emergency assistance
- minor benefits
- long service awards
- safety awards
- Australian Traineeship System
- live-in domestic employees - religious institutions
- live-in help for elderly or disadvantaged persons
- provision of certain work-related items
- taxi travel
- remote area - certain meals provided to employees in primary production.

For more on the exemptions, refer to Fringe benefits tax exempt benefits.

More information

- Miscellaneous Taxation Ruling
  - MT 2024 - *Fringe benefits tax*: *dual cab vehicles eligibility for exemption where private use is limited to certain work related travel*.
  - MT 2034 - *Fringe benefits tax*: *private use of vehicles other than cars*.
- Taxation Ruling TR 1999/6 - *Income tax and fringe benefits tax*: *flight rewards received under frequent flyer and other similar consumer loyalty programs*.
- Taxation Determination
  - TD 2013/7 - *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 2013*?
  - TD 2012/6 - *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 2012?
- TD 93/90 - *Income tax*: *does the 'otherwise deductible' rule apply to reduce the taxable value of fringe benefits provided to associates of employees*?

Changes and updates

The following tables detail any major changes and updates made to this chapter.

November 2013

Section	Changes and updates
18.3 Taxable value	Addition of information summarising the valuation rules
18.4 In-house residual fringe benefits	Addition of information regarding the valuation rules for goods provided under a salary sacrifice arrangement
18.6 Taxable value of motor vehicles other than cars	Updated rates to cover 2010 to 2014.
More information	Most recent tax determinations included. Removed reference to older tax rate determinations.

Last Modified: December 2013

Chapter 19 - Reductions in fringe benefit taxable value

Remember, a fringe benefit may be provided *by* another person on behalf of an employer. It may also be provided *to* another person on behalf 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 fringe benefits tax (FBT), or even no FBT, being payable.

The taxable value of a fringe benefit is calculated in accordance with valuation rules. 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 more on each concession refer to the relevant section of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA), a link to which is provided at each concession.

19.2 Remote area reductions

Residential fuel

Legislative reference: section 59 of the FBTAA.

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
- the employee is also
  - the recipient of a remote area housing benefit that is an exempt benefit as described in section **10.8** of Housing fringe benefits
  - 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 housing assistance referred to below, or
  - incurring remote area housing rent in connection with a unit of accommodation and you provide a form of 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 section **10.8** of Housing fringe benefits, and is not considered residential fuel.

Remote area housing

Legislative reference: section 60 of the FBTAA.

Where you subsidise certain costs your employees may incur in acquiring accommodation in remote areas, you may be eligible for a reduction of the taxable value of the benefit arising from subsidising these costs.

These reductions are different from the remote area housing benefit exemption explained in section **10.8** of Housing fringe benefits. There are different requirements you must meet in order to be entitled to the reduction.

Remote area loan

Legislative reference: subsection 60(1) of the FBTAA.

If:	**Then:**
- you provide a loan fringe benefit connected with a dwelling to your employee - the employee occupied or used the dwelling as their usual place of residence during part of the FBT year (the occupation period) when they had to repay some or all of the loan, and - the shared conditions are met	you are entitled to a reduction of 50% of the taxable value of the loan fringe benefit that relates to the occupation period.

Remote area interest

Legislative reference: subsection 60(2) of the FBTAA.

If:	**Then:**
- you provide an expense payment fringe benefit for interest accrued by your employee on a remote area housing loan connected with a dwelling - that employee occupied or used the dwelling as their usual place of residence during part of the FBT year (the occupation period) when the interest accrued, and - the shared conditions are met	You are entitled to a reduction of 50% of the taxable value of the expense payment fringe benefit that relates to the occupation period.

Remote area rent

Legislative reference: subsection 60(2A) of the FBTAA.

If:	Then:
◦ you provide an expense payment fringe benefit for rent accrued by your employee for a unit of accommodation ◦ the employee used the unit of accommodation as their usual place of residence during part of the FBT year (the occupation period) when the rent accrued, and ◦ the shared conditions are met	you are entitled to a reduction of 50% of the employee's expenditure that relates to the occupation period.
The reduction applies to 50% of the employee's expenditure (the gross rent), not to 50% of the taxable value.	

Remote area property benefit

Legislative reference: subsection 60(3) of the FBTAA.

If:	Then:
◦ you provide an employee with a property fringe benefit consisting of land, or house and land ◦ the employee's property is a remote area residential property, and ◦ the shared conditions are met	you are entitled to a reduction of 50% of the taxable value of the property fringe benefit.

Remote area residential property

Remote area residential property is:

- land on which there is a dwelling that is used by the employee immediately after the provision of the fringe benefit as their usual place of residence
- land on which the employee proposes to build, or finish building, a dwelling for use as their usual place of residence.

The Commissioner of Taxation must be satisfied that the employee has made sustained reasonable efforts to:

- start building within six months of acquiring the land
- within 18 months of acquiring the land, use the dwelling as their usual place of residence.

Remote area residential property expense payment benefit

Legislative reference: subsection 60(4) of the FBTAA.

If:	Then:
◦ you provide an expense payment fringe benefit to your employee ◦ the employee's expenditure is in respect of a remote area residential property, and ◦ the shared conditions are met	you are entitled to reduction of 50% of the taxable value of the expense payment fringe benefit.

Expenditure in respect of remote area residential property

The expenditure must be in relation to the:

- employee's purchase of land on which they intend to build, or complete the building of, a dwelling
- building of a dwelling on land held by the employee

- purchase of land on which there is already a dwelling, or
- extension of a dwelling on the employee's land by adding a room or part of a room to the dwelling.

The following conditions must also be satisfied:

If 1 or 2 applies:

- where expenditure in 1 or 2 is incurred by the employee, they must intend to occupy the dwelling as their residence
- the Commissioner must be satisfied that the employee made sustained reasonable efforts to start building within six months and to occupy the dwelling within 18 months after the employee incurred the expenditure.

If 3 or 4 applies:

- where expenditure in 3 or 4 is incurred by the employee, they must use the dwelling as their usual place of residence as soon as reasonably practicable after incurring the expenditure.

Remote area residential option fee

Legislative reference: subsection 60(5) of the FBTAA.

If:	Then:
◦ you provide an employee with a property fringe benefit ◦ their property is a remote area residential property option fee, and ◦ the shared conditions are met	you are entitled to a 50% reduction of the taxable value of the property fringe benefit.

Remote area residential property option fee

A remote area residential property option fee is property consisting of a fee paid to an employee in return for the employee granting you an option to buy an interest in land. The following conditions must be satisfied:

- the employee must hold an interest in the land to which the option relates
- the land must, at the time when the option fee was paid to the employee, either have a dwelling on it which is the employee's usual place of residence or be land on which the employee intends to build, or complete the building of, such a dwelling
- if the employee intends to build, the Commissioner must be satisfied that they have made sustained reasonable efforts to
  - commence building or start completing the construction of the dwelling within six months
  - to occupy the dwelling within 18 months of the time when the option fee was paid
- when the option fee is paid, the shared conditions must be met
- the contract under which the option fee is paid must be entered into no later than when the employee obtains an interest in the land subject to the option, and the option must also be a recognised remote area housing obligation restricting the employee's right to dispose of the interest in the land.

Remote area residential property repurchase consideration

Legislative reference: subsection 60(6) of the FBTAA.

If:	Then:
◦ you provide your employee with a property fringe benefit ◦ the property is remote area residential property repurchase consideration, and ◦ the shared conditions are met	you are entitled to a 50% reduction of the taxable value of the property fringe benefit.

The 50% discount is denied on that portion of a benefit, arising on repurchase, which is attributable to you paying a repurchase price excessively above market value under a buy-back clause in a remote area housing agreement.

Remote area residential property repurchase consideration

- the employee must hold an interest in the land to which the repurchase relates
- the land must, at the time when the repurchase consideration was paid to the employee, either have a dwelling on it which is the employee's usual place of residence or be land on which the employee intends to build, or complete the building of, such a dwelling
- if the employee intends to build, the Commissioner must be satisfied that they have made sustained reasonable efforts to:
  - commence building or start completing the construction of the dwelling within six months
  - to occupy the house within 18 months of the time when the option fee was paid
- when the repurchase consideration is paid, the shared conditions must be met
- the contract under which the repurchase consideration is paid must be entered into no later than when the employee obtains an interest in the land subject to the repurchase, and the repurchase must also be a recognised remote area housing obligation restricting the employee's right to dispose of the interest in the land.

Recognised remote area housing obligation

A recognised remote area housing obligation is a contractual obligation, binding the employer and the employee, which restricts the employee's ability to dispose of their interest in the relevant land other than to the employer and for a price that can be determined by reference to the contract.

The restriction must exist for a period of at least five years from:

- for a property fringe benefit in relation to 'remote area property repurchase consideration', the time when the employee acquired their interest in the land
- for any other type of property fringe benefit, the time when the benefit was provided to the employee
- for an expense payment fringe benefit, the time when the expenditure was incurred by the employee.

Shared conditions

To qualify for the FBT concession, you must meet the following shared 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 and 130,000, and 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 and 130,000, and at least 100 kilometres from a town with a census population of 130,000 or more.

Where the shortest practical surface route between a locality and an eligible urban area includes a route by water, the distance travelled by water is doubled for the purposes of working out how remote that locality is from the eligible urban area.

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 doesn't 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 if:

- 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
- 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

Legislative reference: section 61 of the FBTAA.

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 section **10.8** of Housing fringe benefits.

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
- 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
- where the benefit is an expense payment fringe benefit, you are provided with proof of the expenditure - that is, originals or copies of receipts or invoices - or a *Remote area holiday transport declaration* in a form approved by the Commissioner (refer to Declarations).

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 doesn't 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 doesn't apply to a reimbursement of car expenses calculated on a cents per kilometre basis unless you obtain a *Remote area holiday transport declaration*, in a form approved by the Commissioner, from the employee.

Remote area holiday transport - subject to ceiling

Legislative reference: section 60A of the FBTAA.

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**, 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

Legislative reference: section 65CA to 65CC of the FBTAA.

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
- 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

Legislative reference: section 61A of the FBTAA.

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. However, if 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

Legislative reference: section 61E of the FBTAA.

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 on you obtaining a signed *Employment interview or selection test declaration - transport in employee's car* in a form approved by the Commissioner of Taxation (refer to Declarations).

Occupational health and migrant language training - transport by employee's car

Legislative reference: section 61F of the FBTAA.

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 (refer to section **20.8** of Fringe benefits tax exempt benefits), 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 on you obtaining a signed *Declaration of car travel to work-related medical examination, medical screening, preventative health care, counselling or migrant language training* in a form approved by the Commissioner (refer to Declarations).

19.4 Relocation reductions

Relocation - where transport by employee's car

Legislative reference: section 61B of the FBTAA.

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 on you obtaining a signed *Relocation transport declaration* in a form approved by the Commissioner (refer to Declarations).

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 - temporary accommodation

Legislative reference: section 61C of the FBTAA.

This concession reduces the taxable value of fringe benefits that arise from providing temporary accommodation (including the 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
- 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 of 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 location, 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 location.

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 lodgment of the FBT return. The *Temporary accommodation relating to relocation declaration* must be in a form approved by the Commissioner (refer to Declarations).

Employee has started to occupy a unit of accommodation within four months

Where the employee has started 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
- 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 *Temporary accommodation relating to relocation declaration* in a form approved by the Commissioner (refer to Declarations).

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.

Relocation - meals

Legislative reference: section 61D of the FBTAA.

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**, 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

Legislative reference: section 63 of the FBTAA.

Rather than paying a cash living-away-from-home allowance to an employee whose duties of employment require them to live away from their normal residence 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.

Food provided because the employee is living away from home from 1 October 2012 onwards

To apply this reduction, the following requirements must be met.

If:	**then:**
the employee works on a fly-in fly-out or drive-in drive-out basis	◦ the employee must have residential accommodation at or near their usual place of employment; and ◦ the employee must give you the appropriate declaration about living away from home.
the employee does not work on a fly-in fly-out or drive-in drive-out basis and is not eligible for the transitional rules	◦ the employee must maintain a home in Australia at which they usually reside and it is available for their use and enjoyment at all times ◦ the fringe benefit must relate to the first 12 month period at a particular work location; and ◦ the employee must give you the appropriate declaration about living away from home.

The declarations provided to you must be in a form approved by the Commissioner (refer to Declarations).

Transitional rules may apply which affect the requirements above. These transitional rules are outlined below.

If your employee is:	then this employee:
a temporary or foreign resident who: ◦ had an employment arrangement ▪ in place before 7.30pm (AEST) on 8 May 2012 and ▪ that was not materially varied or renewed between 7.30pm on 8 May 2012 and 1 October 2012, and ◦ maintained a home in Australia for their immediate use and enjoyment at all times during the period their duties of employment required them to live away from it.	is not limited to the LAFHA concessions for 12 months until the earlier of: ◦ 1 July 2014, or ◦ the date of a material variation in the employment arrangement.
neither a temporary or a foreign resident and had an employment arrangement: ◦ in place before 7.30pm (AEST) on 8 May 2012, and ◦ that was not materially varied or renewed between 7.30pm on 8 May 2012 and 1 October 2012.	◦ is not required to maintain a home in Australia, and ◦ is not limited to the LAFHA concessions for 12 months until the earlier of ▪ 1 July 2014, or ▪ the date of a material variation in the employment arrangement.

The terms temporary resident and foreign resident have their meaning given by section 995-1 of the *Income Tax Assessment Act 1997*. The meaning of temporary resident can also be found by referring to Foreign income exemption for temporary residents - introduction.

Declarations are still required where the transitional rules apply. The declarations provided to you must be in a form approved by the Commissioner (refer to Declarations).

Find out more

Residual fringe benefits, explains changes to the valuation of in-house residual benefits provided from 22 October 2012 under a salary packaging arrangement.

Find out more

- For the transitional rules, see section 11.10 of Living-away-from-home allowance fringe benefits.
- For who is a fly-in, fly-out or drive-in drive-out employee, see section 11.9 of Living-away-from-home allowance fringe benefits.
- For maintaining a home in Australia, see section 11.7 of Living-away-from-home allowance fringe benefits.
- For the first 12 months the employee is required to live away from home, see section 11.8 of Living-away-from-home allowance fringe benefits.

Food provided because the employee was living away from home before 1 October 2012

Where the food was provided, or the employee's food costs were reimbursed, because the employee was living away from home before 1 October 2012, the taxable value could be reduced by the equivalent of:

- $42 a week for each adult
- $21 a week for each child.

An adult is a person who was 12 years old before the beginning of the relevant FBT year and this particular reduction was applied to the taxable value before applying the employee contribution.

To apply this reduction, the employee was required to give the employer a Temporary accommodation relating to relocation declaration in a form approved by the Commissioner (refer to Declarations) setting out their usual place of residence and actual place of residence during the period of the allowance.

Declarations were not required from employees employed under 'fly-in fly-out' arrangements or on offshore oil rigs.

19.5 Other reductions

Personal services entities

Legislative reference: section 61G of the FBTAA.

From 1 July 2000, 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

Legislative reference: section 62 of the FBTAA.

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 $1,000.

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
- airline transport fringe benefits.

You don't need to keep specific records of in-house benefits provided to individual employees if you don't expect the value of the benefits provided in the year to exceed the $1,000 limit.

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.

In-house fringe benefits - tax-free threshold where the benefit is accessed under a salary packaging arrangement

Since 22 October 2012, the $1,000 annual reduction of the aggregate taxable value has not applied to in-house benefits where the employee accesses the benefit under a salary packaging arrangement.

This reduction continues to apply if either:

- the transitional rules apply
- the benefit is not accessed under a salary packaging arrangement.

See section **17.3** of Property fringe benefits and section **18.4** of Residual fringe benefits for information about the transitional rules and what is a salary packaging arrangement.

Entertainment expense payments

Legislative reference: section 63A of the FBTAA.

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

Legislative reference: section 65A of the FBTAA.

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
- 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 doesn't 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).

Changes and updates

The following tables detail any major changes and updates made to this chapter.

June 2013

Section	Changes and updates
19.4 Relocation reductions	Information relating to Living away from home - food provided updated to reflect law changes.

November 2013

Section	Changes and updates

19.5 Other reductions	Included information about the in-house fringe benefits tax-free threshold where the benefit is provided under a salary sacrifice arrangement.

Last Modified: December 2013

Chapter 20 - Fringe benefits tax exempt benefits

20.1 What is an exempt benefit?

A number of benefits are exempt from fringe benefits tax (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 **can't** 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 they are provided. The exemption relates to car expense payments, which is explained in section **20.2**.

Some of the explanations given in this chapter are necessarily brief. For more on each exemption, refer to the relevant section of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA), a link to which is provided at each exemption.

20.2 Transport exemptions

Cars

Legislative reference: section 8 of the FBTAA.

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

An employee's private use of a taxi, panel van or a utility designed to carry less than one tonne, or any other road vehicle designed to carry a load of less than one tonne (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
- 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 because 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 section **7.1** of Car fringe benefits, a residual benefit will arise (refer to section **18.6** of Residual fringe benefits).

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 **either:**

- 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, 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 resulting total passenger weight exceeds the remaining 'load' capacity, the vehicle is treated as being designed for the principal purpose of carrying passengers and so is 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 x 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.

For an explanation of the types of motor vehicles that are cars, refer to section **7.1** of Car fringe benefits.

Personal services entities

Legislative reference: subsection 8(4) of the FBTAA.

A car benefit is an exempt benefit in relation to an FBT year if the person providing the benefit can't 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

Legislative reference: section 22 of the FBTAA.

With some exceptions, where you reimburse the operating expenses of an employee's own car according to the distance travelled in the car, an exempt benefit arises - for example, where expenses are reimbursed on the basis of an agreed number of cents per kilometre travelled.

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 (refer to Reductions in fringe

benefit taxable value).

The exemption is not available where the reimbursement of the car expenses relates to **any** of the following circumstances:

- transport to enable an employee to go on holiday (including remote area and 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
- transport was provided after the employee had ceased to perform the duties of that employment.

Public transport - residual benefits

Legislative reference: subsections 47(1) and 47(1A) of the FBTAA.

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 also 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 an exempt benefit.

Public transport - residual benefits where the benefit is accessed under a salary packaging arrangement

The specific exemption that applies to residual benefits in respect to private home to work travel through public transport and travel on scheduled metropolitan services (where the employer and associate are in the business of providing transport to the public) does not apply from 22 October 2012 where:

- the benefit is provided in-house and
- the employee accesses the benefit under a salary packaging arrangement.

The concession continues to apply if either:

- the transitional rules apply
- the benefit is not accessed under a salary packaging arrangement.

See section **18.4** of Residual fringe benefits for information about the transitional rules and what is a salary packaging arrangement.

Motor vehicles - residual benefits

Legislative reference: subsections 47(6) and 47(6A) of the FBTAA.

Where you provide an employee with the use of a motor vehicle that is not a car

This 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
- non-work-related use that is minor, infrequent and irregular - for example, occasional use of the vehicle to remove domestic rubbish.

For an explanation of the types of motor vehicles that are cars, refer to section **7.1** of Car fringe benefits.

If the 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 method or operating cost method (refer to section **18.6** of

Residual fringe benefits).

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

Legislative reference: subsection 47(7) of the FBTAA.

Transport you provide to employees who work in remote areas in Australia or overseas, or on oil rigs or other installations at sea

This arrangement, commonly known as 'fly-in fly-out' transport, is exempt where **all** of the following apply:

- an employee's usual place of employment is at a remote location in Australia or overseas, or on oil rigs or other installations at sea
- employees are provided with accommodation at or near the worksite on working days
- on a regular basis the employee works for a number of days followed by a number of days off, returning to their usual place of residence on their days off
- you provide the employee with transport between their usual place of residence and their place of employment
- having regard to the location of the two places, it would be unreasonable to expect the employee to travel to and from work on a daily basis.

Accommodation is considered to be in a remote area in Australia:

- 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 and 130,000, and 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 and 130,000, and at least 100 kilometres from a town with a census population of 130,000 or more.

From 1 April 2007, where the shortest practical surface route between a locality and an eligible urban area includes a route by water, the distance travelled by water is doubled for the purposes of working out how remote that locality is from the eligible urban area.

Accommodation is considered to be in a remote area overseas:

- If it is inaccessible or sparsely populated and is not located close to a built up area such as a town or city.

Factors that should be considered to determine if an overseas location is remote (having regard to comparable Australian standards) are:

- the distance and time it takes to travel from the worksite to the nearest urban area
- the population of the nearest urban area
- accessibility of the overseas site
- safety and the crime rate, adequacy of local law enforcement, or health risks in the surrounding areas to the worksite (whether the nearest urban area is reasonably safe if adequate precautions are taken, the ability to take safety precautions)
- location of the worksite relative to the arrival destination in the foreign country - for example, an international airport
- the quality of the roads between the nearest urban area and the worksite
- amenities and facilities available at the nearest urban area (in close proximity to the worksite), such as (but not limited to)
    - public transport
    - availability of accommodation/housing
    - a library, public park or other recreational facilities
    - places for buying a variety of foods
    - a reliable electricity supply and access to clean drinking water/running water and a sewage system
    - availability of access to the internet, mobile phone reception and access to facilities such as banks

and medical supplies and facilities.

No single factor is expected to be determinative - each location will need to be considered on a case-by-case basis, and all of the factors balanced to see whether it would be considered remote.

For information on remote and non-remote overseas locations, refer to FBT exemption for fly-in/fly-out arrangements.

Operating costs of motor vehicle

Legislative reference: section 53 of the FBTAA.

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

Legislative reference: section 58A of the FBTAA.

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 (refer to section **19.3** of Reductions in fringe benefit taxable value).

Motor vehicle parking

Legislative reference: section 58G of the FBTAA.

The following car parking benefits are exempt from FBT:

- residual benefits
- certain expense payment benefits
- parking for the disabled
- 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 explained in section **16.8** of Car parking fringe benefits.

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 registered religious institution
- a registered charity with the Australian Charities and Not-for-profits Commission (ACNC) and endorsed by us
- a public educational institution
- a government body where the employee is exclusively employed in, or in connection with, a public educational institution.

Small business car parking

Legislative reference: section 58GA of the FBTAA.

If you are a small business employer, car parking benefits you provide are exempt if **all** 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
- you were either a small business entity for the last income year before the relevant FBT year, or 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 ITAA 1997, that is, total gross income before any deductions.

Travel to obtain medical treatment

Legislative reference: section 58L of the FBTAA.

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 required to accompany the patient as an escort for medical reasons, 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

Legislative reference: section 58LA of the FBTAA.

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)
- 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
- the employee's usual place of residence is in a remote area (refer to section **10.8** of Housing fringe benefits).

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
- a residual fringe benefit consisting of transport or accommodation for the person travelling.

Taxi travel

Legislative reference: section 58Z of the FBTAA.

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 both:

- a result of sickness of, or injury to, the employee
- 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
  - 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

Legislative reference: subsection 47(2) of the FBTAA.

Recreational or childminding 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 also exempt.

Use of property - residual benefits

Legislative reference: subsections 47(3), 47(4) and 47(4A) of the FBTAA.

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 - however, the exemption doesn't 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

Legislative reference: subsection 47(8) of the FBTAA.

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
- care in school vacations.

Residual benefits - no-private-use declaration

Legislative reference: section 47A of the FBTAA.

A residual benefit that is covered by *a No-private-use declaration - residual benefits* is an exempt benefit.

A condition of the exemption is that the residual benefit arises from the use of property that is subject to a consistently enforced prohibition on private use and that, as such, under the 'otherwise deductible' rule, would have a taxable value of nil.

In such instances, you will then be able to make an annual declaration. The declaration must cover all residual benefits provided to employees where you are able to state 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 of Taxation and be made by the date your FBT return is due to be lodged (refer to Declarations).

20.4 Relocation exemptions

Living-away-from-home accommodation - expense payments

Legislative reference: section 21 of the FBTAA.

Rather than paying a cash living-away-from-home allowance to an employee whose duties of employment require them to live away from their normal residence, 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, the payment is an exempt benefit where the living-away-from-home accommodation requirements below are met.

Living-away-from-home accommodation - requirements

To apply the living-away-from-home accommodation - expense payments and/or residual benefits - exemptions, the following requirements must be met:

If...	Then...
The employee works on a fly-in fly-out or drive-in drive-out basis	◦ the employee must have residential accommodation at or near their usual place of employment; and ◦ the employee must give you a declaration about

	living away from home
The employee does not work on a fly in fly out or drive in drive out basis and is not eligible for the transitional rules	◦ the employee must maintain a home in Australia at which they usually reside and it is available for their use and enjoyment at all times ◦ the fringe benefit must relate to the first 12 month period at a particular work location, and ◦ the employee must give you a declaration about living away from home.
The declarations provided to you must be in a form approved by the Commissioner (refer to Declarations).	

Transitional rules may apply which affect the requirements above -these transitional rules are outlined below.

If your employee is...	Then this employee...
A temporary or foreign resident who: ◦ had an eligible employment arrangement: ▪ in place before 7.30pm (AEST) on 8 May 2012, and ▪ that was not materially varied or renewed between 7.30pm on 8 May 2012 and 1 October 2012, and ◦ maintained a home in Australia for their immediate use and enjoyment at all times during the period their duties of employment required them to live away from it	is not limited to the LAFHA concessions for 12 months until the earlier of: ◦ 1 July 2014 ◦ the date of a material variation in the eligible employment arrangement, ◦ the date of renewal of the eligible employment arrangement, or ◦ the date the eligible employment arrangement ends.
Neither a temporary or a foreign resident and had an eligible employment arrangement: ◦ in place before 7.30pm (AEST) on 8 May 2012 and ◦ that was not materially varied or renewed from 7.30pm on 8 May 2012 up to and including 30 September 2012	◦ is not required to maintain a home in Australia ◦ is not limited to the LAFHA concessions for 12 months. This is until the earlier of: ◦ 1 July 2014 ◦ the date of a material variation in the eligible employment arrangement ◦ the date of renewal of the eligible employment arrangement, or ◦ the date the eligible employment arrangement ends. **Note:** the 12-month period starts from 1 October 2012 for the purposes of the transitional rules, regardless of the date of any renewal or material variation.
The terms temporary resident and foreign resident have their meaning given by section 995-1 of the *Income Tax Assessment Act 1997*. The meaning of temporary resident can also be found by referring to Foreign income exemption for temporary residents - introduction Declarations are still required where the transitional rules apply - the declarations provided to you must be in a form approved by the Commissioner (refer to Declarations).	
For information about: ◦ The transitional rules - see section **11.10** of Living-away-from-home allowance fringe benefits. ◦ Who is a fly-in, fly-out or drive-in drive-out employee - see section **11.9** of Living-away-from-home allowance fringe benefits. ◦ Maintaining a home in Australia - see section **11.7** of Living-away-from-home allowance fringe benefits. ◦ The first 12 months the employee is required to live away from home - see section **11.8** of Living-away-from-home allowance fringe benefits.	

Accommodation provided because the employee was living away from home before 1 October 2012

Where you reimbursed the employee for their accommodation expenses or paid the expenses on behalf of the employee because they were living away from home before 1 October 2012, the payment was an exempt benefit where you obtained the appropriate declaration from the employee in the form approved by the Commissioner (refer to Declarations).

Living-away-from-home accommodation - residual benefits

Legislative reference: subsection 47(5) of the FBTAA.

Where an employee whose duties of employment require them to live away from their normal residence and they are provided with the use of a unit of accommodation, this use is an exempt benefit if the living-away-from-home accommodation requirements above are met.

Relocation - engagement of relocation consultant

Legislative reference: section 58AA of the FBTAA.

From 1 April 2006, if a relocation consultant is used to help relocate 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 helps an employee, or their 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 (refer to section **4.1** of Fringe benefits tax record keeping)
- 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 they cease to perform the employment duties he or she had previously been relocated for
  - 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 help an employee (or their family member) relocate include:

- obtaining removalist quotes
- finding accommodation, including temporary accommodation
- lease negotiation
- providing information about transportation to the new location
- 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 - doesn't qualify for this exemption, but may qualify for other relocation exemptions.

Example

Jenny 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 help Jenny relocate.

The relocation consultant:

- provides accommodation and transportation quotes
- arranges and pays for six months of furniture rental
- provides 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 and arranging for Jenny's relocation to Kalgoorlie - however, Zig & Co Mining is not eligible for an FBT exemption for the six-month furniture rental because this expense was paid by the relocation consultant on Jenny's behalf.

Relocation - removals and storage of household effects

Legislative reference: section 58B of the FBTAA.

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

Legislative reference: section 58C of the FBTAA.

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 **all** of the following apply:

- 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
- 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 **all** of the following apply:

- 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
- 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
- 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, providing 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 doesn't 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, commencing in Ballarat on 1 January 2011.

She purchases a new house in Ballarat on 12 February 2011. On 16 February 2011, her employer pays the conveyancing costs associated with the purchase of the new house.

Frances fails to sell her home in Geelong by 2 January 2013. The conveyancing costs paid by her employer are exempt at the time they are provided - however, because 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 2011 will now become FBT liable in the 2012-13 FBT year.

Relocation - connection or reconnection of certain utilities

Legislative reference: section 58D of the FBTAA.

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
- 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

Legislative reference: section 58E of the FBTAA.

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
- the employee must be provided with living-away-from-home accommodation that is an exempt expense payment or exempt residual benefit.

Relocation - transport

Legislative reference: section 58F of the FBTAA.

Where an employee is required to live away from home, or is required to relocate their usual place of residence, in order to perform employment-related duties, 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 doesn't 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 (refer to section **19.4** of Reductions in fringe benefit taxable value).

20.5 Religious and non-profit organisation exemptions

Registered religious institutions

Legislative reference: section 57 of the FBTAA.

Benefits provided by registered 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 **any** of the following:

- 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
- a student at a college conducted solely for training people to become a member of a religious order.

For more on FBT exemptions for registered religious institutions, see taxation ruling TR 92/17 Income tax and fringe benefits tax: exemptions for 'religious institutions'.

Registered public benevolent institutions, registered health promotion charities, some hospitals and public ambulance services

Legislative reference: section 57A of the FBTAA.

Registered public benevolent institutions and registered health promotion charities

A public benevolent institution (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 the purpose of private gain for particular people.

A health promotion charity (HPC) 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 doesn't have as its principal objects the provision of such relief, is not a PBI.

From 3 December 2012, all PBIs and HPCs have to be registered with the ACNC and endorsed by us in order to claim FBT concessions.

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).

For more on registered and endorsed PBIs and registered and endorsed HPCs, refer to Non-profit organisations

and fringe benefits tax.

Benefits exempted by this provision may be subject to fringe benefits reporting requirements as explained in Reportable fringe benefits.

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).

For more on public and non-profit hospitals and public ambulance services, refer to Non-profit organisations and fringe benefits tax.

Benefits exempted by this provision may be subject to fringe benefits reporting requirements as explained in Reportable fringe benefits.

Live-in residential care workers

Legislative reference: section 58 of the FBTAA.

Accommodation, residential fuel, meals or other food and drink provided to employees (and their spouse or children) of government bodies, registered 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; 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 as explained in Reportable fringe benefits.

Live-in domestic employees - registered religious institutions

Legislative reference: section 58T of the FBTAA.

Accommodation, household fuel, meals and other food and drink provided to an employee may be exempt benefits - however, the employer must be either a registered religious institution or a religious practitioner.

A religious practitioner is someone who is **any** of the following:

- 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
- 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 the preparation of meals. Personal services may include those of a personal secretary or chauffeur.

Non-live-in domestic employees

Legislative reference: section 58V of the FBTAA.

Food and drink you provide to domestic employees who don't '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 registered 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 the 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

Legislative reference: section 41 of the FBTAA.

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.

This exemption doesn't apply to:

- employers who are exempt from income tax when entertainment arises from the provision of food and/or drink
- income tax-paying bodies who elect to value the entertainment as meal entertainment
- meals provided under a salary sacrifice arrangement after 7.30pm AEST on 13 May 2008.

Worker entitlement funds

Legislative reference: sections 58PA and 58PB of the FBTAA.

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 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
- 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.

Approved worker entitlement funds

A fund can only be an approved worker entitlement fund if it is limited to making payments to the employee for whom contributions were received. However, upon the death of an employee, the fund is able to make payments to the employee's dependants or the trustee of the employee's deceased estate without losing its status as an approved worker entitlement fund.

Approved worker entitlement funds comprise:

- all long service leave funds established by or under a Commonwealth, state or territory law

- funds that have been prescribed in the FBT regulations as approved worker entitlement funds (pre 28 June 2011)
- funds that we have endorsed since 28 June 2011.

Funds that were prescribed before 28 June 2011 will be taken to be endorsed from 28 June 2011.

From 28 June 2011:

- the Australian Business Registrar (ABR) is required to enter a fund or entity as an endorsed fund or entity on the ABR by 28 December 2012
- all approved worker entitlement funds must have an Australian business number (ABN)
- existing funds that did not have an ABN had until 28 December 2011 to obtain an ABN
- we are able to revoke the endorsement of a worker entitlement fund in certain situations.

20.7 Remote area exemptions

Remote area housing

Legislative reference: section 58ZC of the FBTAA.

A remote area housing benefit is an exempt benefit. Remote area housing benefits are explained in section **10.8** of Housing fringe benefits.

Certain meals provided to primary production employees

Legislative reference: section 58ZD of the FBTAA.

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 ITAA 1997
- your business is carried on in a remote area (as explained in section **10.8** of Housing fringe benefits) - that 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)
- the provision of the meal doesn't amount to the provision of a meal entertainment benefit (as explained in section **14.3** of Fringe benefits tax and entertainment).

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
- transporting trees, or parts of trees, that you felled in a plantation or forest to either the place
  - where they are first to be milled or processed
  - 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

Legislative reference: section 17 of the FBTAA.

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), and 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 relating to living-away-from-home accommodation outlined in section **20.4**, or the accommodation must be temporary accommodation eligible for a reduced taxable value, in accordance with the relocation concessions explained in section **19.4** of Reductions in fringe benefit taxable value.

Expense payments - no-private-use declaration

Legislative reference: section 20A of the FBTAA.

An expense payment benefit that is covered by a *No-private-use declaration - expense payment benefits* is an exempt benefit.

A condition of this exemption is that the expense payment benefit that arises from the reimbursement of expenditure is wholly employment related and that, as such, under the 'otherwise deductible' rule, would have a taxable value of nil.

In such instances, you will be able to make an annual declaration. The declaration must cover all expense payment benefits provided to employees where you are able to state that the benefits were provided only for employment-related purposes and that there was no private portion.

The declaration must be in a form approved by the Commissioner and be made by the declaration date (refer to Declarations).

Food or drink

Legislative reference: section 54 of the FBTAA.

Where employees receive meals that are board fringe benefits, any additional food and drink supplied to them, such as morning and afternoon tea, 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

Legislative reference: sections 55 and 56 of the FBTAA.

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*
- 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

Legislative reference: section 58H of the FBTAA.

The costs of providing newspapers and periodicals to employees for business purposes, are exempt benefits. The exemption doesn't apply where the business use is merely incidental.

Compensable work-related trauma

Legislative reference: section 58J of the FBTAA.

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 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 don't 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

Legislative reference: section 58K of the FBTAA.

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 or facility 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

Legislative reference: section 58M of the FBTAA.

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
- 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 doesn't apply - however, a reduction in taxable value may be available as explained in section **19.3** of Reductions in fringe benefit taxable value.

Emergency assistance

Legislative reference: section 58N of the FBTAA.

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 **any** of the following:

- first aid or other emergency health care
- emergency meals, food supplies, clothing, accommodation, transport or use of household goods
- temporary repairs
- 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

Legislative reference: section 58P of the FBTAA.

Minor benefits are exempt benefits. A minor benefit is a benefit which is **both:**

- less than $300 in value (before 1 April 2007 the amount was less than $100), **and**
- unreasonable to treat as a fringe benefit.

Less than

$300 in value

A minor benefit is a benefit which has a 'notional taxable value' of less than $300. 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 $300.

When determining if the notional taxable value of the benefit is less than $300, benefits provided to associates are not included.

Special rules that apply to car benefits

There are different rules for car benefits. The notional taxable value of a car benefit is determined by applying the residual fringe benefit rules - that is, to determine whether a car benefit is less than $300, you may **either:**

- apportion the operating costs of the vehicle, **or**
- apply the cents-per-kilometre method.

If the notional taxable value of a benefit is less than $300, you then need to determine if it would be unreasonable to treat the benefit as a fringe benefit.

Criteria for determining whether it would be unreasonable to treat the minor benefit as a fringe benefit

The following **five** criteria need to be considered when deciding if it would be unreasonable to treat the minor benefit as a fringe benefit:

1.	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.
2.	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.
3.	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.
4.	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.
5.	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, and recording and valuation difficulties - before concluding whether the exemption should apply to a minor benefit.

When the minor benefits exemption doesn't apply

The exemption doesn't extend to airline transport fringe benefits or other in-house fringe benefits, the taxable values of which are, in any case, reducible by $1,000 under the concession explained in the respective chapters for these types of fringe benefits.

The exemption also does not 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 doesn't apply to meals or benefits provided in connection with meals.

This later exclusion doesn't 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.

The exemption doesn't apply to meal entertainment where you elect to use the meal entertainment provisions and calculate the taxable value under the 50:50 split method. If you elect to use this valuation rule, all of your expenditure on meal entertainment must be included when calculating your total meal entertainment expenditure for the FBT year.

Similarly, where you elect to use the 50:50 split method for valuing entertainment facility leasing expenses, the minor benefits exemption doesn't apply.

Where you elect to use the 12-week register method for valuing meal entertainment, the minor benefits exemption can apply.

The minor benefits exemption will not apply to benefits that are provided under an effective salary sacrifice arrangement. Benefits provided under a salary sacrifice arrangement are provided principally as part of a remuneration package. When all of the criteria are considered, and in particular the circumstances in which benefits are provided under a salary sacrifice arrangement, it would be reasonable to conclude that all such benefits are not exempt minor benefits.

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 $300. If the gift is provided at a Christmas party, the gift needs to be considered separately to the Christmas party when considering the minor benefits threshold.

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 $300 because, looking at the five factors, it would be unreasonable to treat the benefit as a fringe benefit.

By 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 $300.

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 doesn't 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 provided to a new employee - for example, a food hamper
  - 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
  - permitting staff to have waste or leftover materials of a business, such as packing cases or fabric

remnants.

Long service awards

Legislative reference: section 58Q of the FBTAA.

Long service awards granted in recognition of 15 years or more service are exempt, provided the value of the award doesn't 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.

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

Legislative reference: section 58R of the FBTAA.

An award genuinely related to occupational health or occupational safety achievements that is granted to an employee is exempt from tax if its value doesn't 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 doesn't 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 don't 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

Legislative reference: section 58S of the FBTAA.

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

Legislative reference: section 58U of the FBTAA.

An exemption from FBT applies to certain benefits that you provide to people who are employed in caring for elderly or disadvantaged persons and who reside with them in their own homes. An elderly person is aged 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)
- other food or drink similarly provided.

Provision of certain work-related items

Legislative reference: section 58X of the FBTAA.

An FBT exemption applies for the following work-related items:

- a portable electronic device
- an item of computer software
- an item of protective clothing
- a briefcase
- a tool of trade.

Even if you provide your employee with these work-related items, you still need to consider the limitations on the exemption.

Portable electronic device

A portable electronic device is a device that is **all** of the following:

- easily portable and designed for use away from an office environment
- small and light
- can operate without an external power supply
- designed as a complete unit.

Examples of portable electronic devices include a mobile phone, calculator, personal digital assistant, laptop, portable printer, and portable global positioning system (GPS) navigation receiver.

Limitations on exemption

The exemption is limited to:

- items primarily for use in your employee's employment - that is, for work-related use
- one item per FBT year for items that have a substantially identical function, unless the item is a replacement item

There are no restrictions where you only provide an employee with the use of an item (that is, it is a residual benefit and not an expense payment or property benefit).

Primarily for use in the employee's employment

An item is primarily for use in the employee's employment if it is provided principally to enable your employee to do their job.

When determining whether or not an item is primarily for use in the employee's employment, the decision is based on the employee's intended use at the time the benefit is provided to them. You don't have to look at the employee's actual usage over the FBT year to determine whether the item is used primarily in the employee's employment.

However, you must use a reasonable basis to determine whether an item is primarily for use in your employee's employment - for example, the employee's job description, duty statement or employment contract.

Alternatively, if you are aware that there may be private use of an item, you could document factors such as those listed below to determine whether the item is primarily for use in the employee's employment:

- the reason or reasons the item was provided to your employee
- the type of work your employee will be performing
- how the use of the item relates to your employee's employment duties
- your policy and any conditions relating to the use of the item.

Substantially identical functions

An eligible work related item will not be exempt from FBT if earlier in the same FBT year you have provided your employee, by way of an expense payment or property benefit, with an item that has substantially identical functions.

It is the features or design specifications that are examined when determining whether items have substantially identical functions, not the intended use of the items.

Items will have substantially identical functions where the functions of two items are the same in most respects. However, items may be different in a number of ways which do not impact on an item's function. For example, colour, shape, brand and design would not generally be relevant considerations when determining whether two items have substantially identical functions.

Where a tablet computer can perform the functions of a laptop computer, even in a reduced capacity, it would be considered to have substantially identical functions to the laptop computer. However, where a tablet computer is designed primarily as a means of digital media consumption, rather than creation, it would not have substantially identical functions to a laptop.

Example - Items do not have substantially identical functions

An employer gives their employee a laptop during the FBT year so that they can work from home and access their email, prepare work related material such as word processing documents and complex spreadsheets and access the internet.

In the same FBT year, the employer gives that employee a tablet as it is more portable than the laptop and is useful for the employee when they are travelling. The tablet is designed to access email and browse the internet. It is not designed to create word processing documents or complex spreadsheets. The tablet does not have substantially identical functions to the laptop computer and would not be considered to be able to replace the laptop. The tablet would also be exempt from FBT, provided it was used primarily for work-related purposes.

Replacement items

An item is a replacement item if the previous item is lost or destroyed, or needed replacing because of developments in technology.

Example

A financial planning company provides its employees with a laptop computer, which is a portable electronic device. The laptop is intended to be used at client visits to provide advice, and also between client visits to produce and update reports.

The employer doesn't have a policy restricting personal use, and expects that there may be incidental private use of the laptop by the employee. There have been no other laptops provided to the employee during the FBT year.

The employer doesn't have to pay FBT on the provision of the laptop to its employees and it is exempt under the provision of work-related items exemption - that is:

- the laptop is provided to the employee principally to enable them to perform their employment duties, **and**
- there has only been one laptop provided to the employee during the FBT year.

Membership fees and subscriptions

Legislative reference: section 58Y of the FBTAA.

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
- an entitlement to use an airport lounge membership.

Approved student exchange programs

Legislative reference: section 58ZB of the FBTAA.

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).

More information

- Taxation Ruling TR 2007/12 - Fringe benefits tax: minor benefits.
- Taxation Ruling TR 92/17 - Income tax and fringe benefits tax: exemptions for 'religious institutions'
- Miscellaneous Taxation Ruling MT 2034 - Fringe benefits tax: private use of motor vehicles other than cars.

Changes and updates

The following tables detail any major changes and updates made to this chapter.

April 2013

Section	Changes and updates
20.4 Relocation exemptions	Updated information about living-away-from-home exemptions to reflect new law.

August 2013

Section	Changes and updates
20.4 Relocation exemptions	Updated table outlining information about transition rules for living-away-from-home exemptions
20.5 Religious and non-profit organisation exemptions	Updated to reflect ACNC registration and ATO endorsement requirements. Reference to TR 92/17 added.
More information	Updated to include reference to TR 92/17.

October 2013

Section	Changes and updates
20.2 Transport exemptions	Addition of information regarding the changes to the residual exemption for public transport provided under a salary sacrifice arrangement
20.8 Other exemptions	Addition of information regarding substantially identical functions in relation to the provision of certain work-related items

Last Modified: December 2013

Chapter 21 - Employee cars - 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 another person on behalf 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 section **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 fringe benefits tax (FBT) return or, where you are not required to lodge a return, by 21 May.
- Using the formula described in section **21.3**, you calculate the percentage of business use. You then use this percentage 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 section **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 can't 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 section **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 33 1/3% (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, 33 1/3%.
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.

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 section **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 33 1/3%. 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 33 1/3%).
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.

21.2 Logbook and odometer records

This section is relevant only to the first method described in section **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 section is relevant only to the first method described in section **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).

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
- 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:

- you must keep odometer records of the total kilometres travelled during the year (or part-year if appropriate)
- 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 section **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 section is relevant only to the first method described in section **21.1**.

We don't 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
- 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 section is relevant only to the first method described in section **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 used for this purpose.

Odometer records should also be kept for the same period for which a logbook is kept.

We don't 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
- 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 times the readings relate to, 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 section is relevant only to the second and third methods described in section **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 for that type of benefit. However, the information contained in the *Employee's car declaration* must be extended by the addition of either section B or C (whichever is appropriate). For a list of employee declarations refer to Declarations.

21.7 Special rules under the new law for applying the otherwise deductible rule to jointly owned cars and for jointly provided fringe benefits

Where an fringe benefit (loan fringe benefit, expense payment fringe benefit, property fringe benefit and residual fringe benefit) is provided jointly to an employee and an associate in relation to an income earning asset, the new law operates in conjunction with the existing rules to only allow the taxable value of the fringe benefit to be reduced by the employee's share of any deductible amount.

The new law also applies for fringe benefits provided jointly to an employee and associate where this chapter applies rules for valuing employee car fringe benefits. In these cases, the amount ascertained as the reduction available under this chapter forms the 'unadjusted notional deduction', as described in chapter 8.8A, 9.4A, 17.5A and 18.7A.

Example:

A car is owned jointly by an employee and associate (50% each) and applied by both persons to derive assessable income. A valuation under this chapter is required because of the extent of the documentation held. The deduction otherwise available under this chapter will be reduced to the employee's share of any deductible amount - that is, to 50% of the 'unadjusted notional deduction'.

More information

- 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?

Changes and updates

The following tables detail any major changes and updates made to this chapter.

February 2010

Section	Changes and updates
21.7 Special rules under the new law for applying the otherwise deductible rule to jointly owned cars and for jointly provided fringe benefits	Included information about the new law for the otherwise deductible rule and jointly owned cars and for jointly provided fringe benefits.

August 2011

Section	Changes and updates
	Nil.

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