



2025 FRINGE BENEFITS TAX GUIDE



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1 INTRODUCTION

This 2025 MKT FBT Guide provides a summary of commonly provided fringe benefits and should be used in conjunction with the 2025 MKT FBT Checklist provided.

Fringe Benefits Tax (**FBT**) is a federal tax payable by an employer that provides fringe benefits to its employees in respect of their employment. A fringe benefit will exist if the conditions in the definition in section 136(1) of the *Fringe Benefits Assessment Act 1986* (**FBTAA**) are met. These requirements are:

- there is a benefit;
- it is provided at some point during the year, or in relation to the relevant year of tax;
- it is given to an employee or an associate of the employee;
- it is given by the employer, an associate of the employer, or by another party (an arranger) under an arrangement with the employer or an associate of the employer; and
- it is in relation to the employment of the employee.

A benefit is widely defined and includes any right (including a right in relation to, and an interest in, real or personal property), privilege, service or facility and, without limiting the generality of the foregoing, includes a right, benefit, privilege, service or facility that is, or is to be, provided under:

- (a) an arrangement for or in relation to:
 - (i) the performance of work (including work of a professional nature), whether with or without the provision of property;
 - (ii) the provision of, or of the use of facilities for, entertainment, recreation or instruction; or
 - (iii) the conferring of rights, benefits or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;
- (b) a contract of insurance; or
- (c) an arrangement for or in relation to the lending of money.

A benefit is therefore widely defined, covering almost any actual benefit that could be received. However, a benefit in this context is restricted to only non-cash benefits.

FBT is payable by the employer at a flat rate of **47%** (for the 2025 FBT year) on the 'grossed-up' taxable value of fringe benefits provided to employees (and/or their associates).

2 WHAT'S NEW IN 2025

2.0 Car Parking Benefits – Commercial Car Park

A car parking benefit will only arise where; a car is parked on "business premises or associated premises" for more than four hours **and** a "commercial parking station" is located within a one-kilometre radius of the premises on which the car is parked.

In 2021 the ATO expanded its view on what it considers is a 'commercial car parking station' through the released of Taxation Ruling TR 2021/2. Essentially, the following will be considered to be commercial car parks:

- Special purpose car parking stations where the primary purpose is not to provide all day parking (e.g. shopping centres, airports and hospitals with high fee structures to discourage all day parking).
- Dual/multiple purpose car parks whereby only a minority of the car parks are provided to the public (e.g. a hospital where majority of the parks are reserved for employees)

In both instances, the ATO's view is that where there is a 'commercial car park' located within a 1km radius of where an employer has provided parking for an employee, a car parking benefit will have been provided for FBT purposes.

However, on 6 February 2025, the Federal Court's judgement on *Toowoomba Regional Council v FCT* [2025] FCA 161 (Fed Ct, Logan J) (*Toowoomba*) has put the ATO's views on what is a "commercial car park" into question. The Court ruled that as a shopping centre car park in Toowoomba was not being operated commercially for a profit, it was not a commercial parking station for FBT purposes.

The facts of this case were that during the 2022-23 FBT year, parking at Grand Central was free for up to 3 hours. Thereafter, the fees escalated from \$2 to \$6 for 3.5 to 5 hours, rising to a maximum of \$20 for over 7 hours. Grand Central also offered concessional or free parking, e.g. free parking after 6pm and for disabled shoppers, cinema patrons and shoppers that spent more than \$150 at the centre; and all-day parking at a flat rate of \$7.50 for customers who lived outside Toowoomba.

The Court ruled that although the car park was being operated "in trade or commerce", the range of free parking was inconsistent with it being operated commercially for profit. Accordingly, the Grand Central car park was determined to **not** to be a "commercial parking station" for FBT purposes.

What does this mean for the 2025 FBT returns? Given that the Commissioner has now lodged an appeal to the Full Federal Court, it will continue to regard its views in TR 2021/2 as the correct interpretation of the law. It is unlikely that this position will be settled prior to lodgement of 2025 FBT returns. Employers will need to consider whether to take the *Toowoomba* case into

account or continue to apply the Commissioner's views on what is a "commercial car park" when assessing whether they are providing car parking benefits for the 2025 FBT returns.

MKT Note

We are of the view that it would be prudent to await the appeal before amending the treatment. If the appeal is ultimately decided in favour of the taxpayer, employers can then look to amend/object to the prior year assessments to obtain a refund of FBT of not only the 2025 FBT year, but also the 2 earlier FBT years (2023 & 2024) that have been lodged since the issue the Commissioner's views in TR 2021/2.

2.1 Bechtel and Implications for FIFO Travel Expenses

The Full Federal Court's decision in *Bechtel Australia Pty Ltd v FCT* [2024] FCAFC 33 (Bechtel) ruled on whether fly-in-fly-out (FIFO) employees' travel is deductible to the employer. Importantly, employers should be wary of the treatment of travel expenses for workers in the mining, gas, transport and other industries under their FIFO employee arrangements.

The *Bechtel* case argued that the "otherwise deductible rule" should apply to reduce the taxable value of FIFO employee travel to nil. However, the Full Federal Court ruled that the relevant transport costs were not otherwise deductible. This being the case, the travel expenses incurred by Bechtel were subject to FBT.

The facts in *Bechtel* were similar to the *John Holland*¹ case where employees were required to travel from Perth Airport to Geraldton as part of their employment. In *Bechtel*, the employer Bechtel, was contracted to construct three large Liquefied Natural Gas plants and related facilities on Curtis Island, Queensland. Curtis Island is situated near Gladstone in Central Queensland and is only accessible by sea or air. A ferry service operates between Curtis Island and the nearby mainland.

Critical to both cases was the issue of whether employees were travelling **to work** or travelling **on work**. In *John Holland* it was held that employees were travelling on work and accordingly the "otherwise deductible rule" applied to reduce the taxable of the fringe benefit to nil. The contributing factors in the *John Holland* case that lead to the Court ruling that employees were travelling *on work* was that FIFO employees were required to report for duty at Perth Airport on their way to Geraldton and were subject to the directions and policies of the employer from the time they were rostered on at the airport. Employees were also paid for their travel time from when they were rostered-on.

However, in *Bechtel*, employees did not start their rostered shift until they reached Curtis Island, nor were the FIFO employees paid for their travel time. Accordingly, the Full Court in *Bechtel* determined that all costs incurred in transporting FIFO employees to Curtis Island were not

¹ *John Holland Group Pty Ltd v Commissioner of Taxation* [2015] FCAFC 82 (John Holland)

“otherwise deductible” and subsequently found Bechtel Australia was liable for fringe benefits tax on these expenses.

In both *Bechtel* and *John Holland*, the employers sort to rely on the ‘otherwise deductible rule’ to reduce an FBT liability arising from the payment of transport costs for FIFO employees. We note that an exemption is available under s 47(7) for certain transport provided to FIFO employees between his or her usual place of residence and place of employment, where the place of employment is in certain remote areas (including overseas) or on an oil rig or other installation at sea.

Notwithstanding that the FIFO travel in *Bechtel* was to Curtis Island (an area only accessible by sea), it was unlikely the employer could have obtained the FIFO exemption under s 47(7) as Curtis Island was not considered to be a ‘remote area’ for FBT purposes due to its’ proximity to Gladstone, an urban area.

2.1.1 FIFO Travel – FBT Exemption under s47(7)

An FBT exemption is available under s 47(7) for certain transport provided to an employee between his or her usual place of residence and place of employment, where the place of employment is **in certain remote areas (including overseas) or on an oil rig or other installation at sea**. The basic requirements are that:

1. An employee's usual place of employment must be on an oil rig or other installation at sea, or it must be in an appropriate remote area. *Note: A location in Australia or an internal Territory (ie Christmas Island or the Cocos (Keeling) Islands) is not remote for these purposes if it is in, or adjacent to, an eligible urban area.*

The list of remote area locations, is available on the Tax Office website at:

<https://www.ato.gov.au/businesses-and-organisations/hiring-and-paying-your-workers/fringe-benefits-tax/in-detail/fringe-benefits-tax-remote-areas>

An FBT exemption is only available on FIFO travel under s 47(7) if:

- the employee is provided with residential accommodation at or near the usual place of employment. The accommodation can be provided by the employer, an associate of the employer, or another person under an arrangement with the employer or associate of the employer;
- the employee regularly works for a number of days and then has a number of days off;
- the employee is provided with transport on a regular basis between her or his usual place of employment and usual place of residence (so that days off can be spent at the employee's usual place of residence). The transport can be provided by the employer,

an associate of the employer, or another person under an arrangement with the employer or associate²; and

- having regard to the location of both the employee's usual place of employment and the usual place of residence, it would be unreasonable to expect the employee to travel between the 2 locations on a daily basis.

MKT Note

The key takeaway for employers is to review their FIFO arrangement to assess whether they qualify for an FBT exemption on their FIFO travel expenses under either the 'otherwise deductible rule' or s 47(7).

Importantly, employers need to consider the commerciality of whether employees are "rostered-on" and paid when they travel to their work site or not in light of the decisions of the *Bechtel* and *John Holland* cases.

If you would like assistance with these matters please contact MKT.

2.2 Plug-In Hybrid Electric Vehicle (PHEV)

From 1 April 2025, a plug-in hybrid electric vehicle will not be considered a zero or low emissions vehicle under FBT law and will not be eligible for the [electric car FBT exemption](#). However, you can continue to apply the [electric car exemption](#) where you meet the following requirements.

You can continue to apply the [electric car exemption](#) if you meet both the following requirements:

- That plug-in hybrid electric vehicle was used, or available for use, before 1 April 2025 (and that use, or availability for use, was exempt);
- You have a financially binding [commitment](#) to continue providing the use, or availability for use, of the car for private purposes on and after 1 April 2025 (but any optional extension of the agreement is not considered binding).

Importantly **if** there is a change to a pre-existing commitment on or after 1 April 2025, the FBT exemption for the PHEV will no longer apply from the date of that new commitment. Some examples of when changes to pre-existing commitments will result in a new commitment (thereby causing the employer no longer to be eligible for the FBT exemption):

- [Optional extensions to the agreement](#) – the agreement must be for a pre-determined period of time;

² Note that the exemption still applies where employees take a rest day during their time at the worksite: Determination TD 94/96 (see also Determination TD 95/49)

- [Breaks in novation agreements](#) – the car is not used, or available for the private use, of the employee under the agreement;
- [Changes to the financial obligations under the lease](#) – including changes to lease payments or the residual value of the car; and
- [Changed employer for FBT purposes](#) – results in a new commitment to the application or availability of the car by the new employer.

2.3 FBT Record Keeping Relief

From 1 April 2024, employers can use existing records instead of having to obtain an employee declaration and travel diaries for some fringe benefits pursuant to LI 2024/6 *Adequate Alternative Records (Otherwise Deductible Benefits) Determination 2024*.

From 1 April 2024, for certain benefits for a fringe benefits tax (FBT) year, you can choose to:

- rely on alternative records³
- keep and retain the records in the current approved form – a [travel diary](#) or some [employee declarations](#) for FBT record keeping purposes; or
- use a combination of both methods for each employee for each benefit.

Generally, employers providing an employee with an [expense payment](#) fringe benefit, [property](#) fringe benefit or [residual](#) fringe benefit can use alternative records provided the records provide adequate information to identify the employee receiving the benefit, the dates the benefit was provided, the type of benefit provided and details to support the employer's FBT return calculations and disclosures.

An alternative record option is available from 1 April 2024 onwards for the following records:

- Travel diary
- Living away from home allowance – FIFO/DIDO declaration
- Living away from home allowance - maintaining an Australian home declaration
- Otherwise deductible rule – expense payment, property or residual benefit declaration
- Otherwise deductible rule – private use of a vehicle other than a car declaration
- Remote area holiday transport declaration
- Car travel to an employment interview or selection test declaration
- Remote area holiday transport declaration
- Overseas employment holiday transport declaration
- Car travel to certain work-related activities declaration
- Relocation transport declaration

³ (as determined by the Commissioner by legislative instrument)

- Temporary accommodation relating to relocation declaration

Adequate alternative records that can be accepted instead of a relevant employee declaration or travel diary. Alternative records must be written in English and contain, at a minimum, the following information:

- (a) the name of the employee who received the benefit,
- (b) the duration of the travel, and
- (c) for each activity undertaken by the employee in the course of producing their assessable income while undertaking the travel, the:
 - (i) place where the activity was undertaken
 - (ii) date and approximate time the activity commenced
 - (iii) duration of the activity, and
 - (iv) nature of the activity.

2.4 Benefits to Directors/Owners – BQKD

In May 2024, the Administrative Appeals Tribunal (AAT) set aside FBT assessments issued by the Commissioner of Taxation to a company in respect of non-cash benefits provided to directors in *BQKD v FC of T [2024] AATA 1542* (BQKD). In this case, the business was carried on in a discretionary trust, and the fringe benefit in question was the use of luxury cars for private purposes.

The key issues that the AAT was required to consider were whether:

- The three directors were employees of the taxpayer for FBT purposes; and
- If they were employees of the trust, where the car benefits were paid to them in respect of that employment.

The taxpayer was the corporate trustee of a discretionary family trust, with its directors being three brothers, who were also eligible beneficiaries under the relevant family trust. Three luxury cars were purchased in the company name and made available for both business and private use of each brother. The brothers did not receive salary and wages from the trust (or directors fees from the trustee company) and the trustee did not directly distribute trust income to the brothers, but rather, trust distributions were made to the individual discretionary trusts associated with each brother. There was no written contract of employment for any of the three directors, and no record of any board resolution to enter into such an agreement. The Commissioner issued FBT assessments on the basis that the taxpayer was liable to FBT on the value of the non-cash benefits provided to the three directors of the trustee company. The taxpayer objected and, when its objections were disallowed, sought review.

The AAT ruled that based on the evidence, it was established that the directors were **not employed** by the trust and that, even if they were employees, they did not receive the benefits in respect of their employment. The AAT concluded that the evidence did not suggest an employment relationship existed due to a lack of contractual agreement or board resolution, and limited evidence of control of the taxpayer.

Additionally, the AAT held that even if the arrangement was to be deemed an employment relationship, the AAT did not consider the benefits to be provided in respect of employment, as there was no evidence that the private use of the luxury cars was provided to the individual directors in lieu of director's fees or remuneration. Instead, the benefits were provided in respect of the individuals being beneficiaries under the trust. The directors perceived their entitlement to car benefits as arising not as reward for their work as a director or an employee but as due to them as beneficiaries of the trust.

MKT Note

We recommend caution in applying a blanket approach to treating car benefits provided to directors as not subject to FBT on the basis that they are beneficiaries of a trust who are not being paid a salary and as non-cash benefits are considered as their entitlement as an 'owner' of business.

The key takeaway from this decision is to consider whether the benefit provided to the individual "in their capacity" as a business owner (i.e. shareholder or beneficiary of a trust) **or** in their capacity as an employee. Where the factors indicate that the case is of the latter, then a fringe benefit liability could arise.

3 CAR FRINGE BENEFITS

A car fringe benefit arises when a car held by an employer (an associate or arranger) and used by an employee for work purposes, is either:

- applied to a private use by the employee or associate, or
- taken to be available for the private use of the employee or associate.

A car for FBT purposes is defined as a motor vehicle (including a 4-wheel drive vehicle), which is:

- (a) a motor car, station wagon, panel van, utility truck or similar vehicle designed to carry a load of less than one tonne; or
- (b) any other road vehicle designed to carry a load of less than one tonne or fewer than 9 passengers.

If a motor vehicle does not meet the definition of a car, it may still be subject to FBT as a residual fringe benefit.

A car is considered 'held by an employer' if the employer either:

- (a) owns the car by outright purchase, or
- (b) leases the car by way of a hire purchase agreement, finance lease, novated lease or other forms of finance.

A car is not considered to be 'held by an employer' if it has been leased or hired on a short-term basis (e.g. less than 12 weeks). A car under a short-term lease may still be subject to FBT as a residual fringe benefit rather than a car fringe benefit.

A car is taken to be 'available for private use' if it is garaged or kept at or near a place of residence of the employee or of an associate of the employee at any time on a day. A car is also taken to be available for private use where it is not at the employer's business premises and any of the following conditions are satisfied:

- the employee is entitled to apply the car to a private use,
- the employee is not performing the duties of their employment and has custody or control of the car,
- an associate of the employee is entitled to use, or has custody or control of the car, and
- the employee used the car to travel to and from work (travel to and from work constitutes 'private use' of a vehicle).

However, a car is not available for private use if it is garaged for repairs and maintenance.

MKT NOTE

Where an employee is travelling for work and/or private purposes, consideration should be given to leaving both the key and the car at the employer's business premise to minimise FBT exposure (Refer to Taxation Determination TD 94/16).

Alternatively, there are certain arrangements offered by the airport where the car is parked at the airport and the car keys are retained by the airport personnel in such a way that the car is deemed to be not available for private use. For example, see Class Ruling CR 2016/2.

3.1 The Methods of Calculating the Taxable Value

When calculating the taxable value of a car fringe benefit, an employer has a choice of 2 methods:

1. Statutory Formula method, or
2. Operating Cost method.

It is possible for the employer to choose different methods for different cars and to change the methods from year to year. However, whenever a switch is made from the Statutory Formula method to the Operating Cost method, the rules relating to log books will start again. This is even if the Operating Cost method was used in earlier years.

As a rule of thumb, the Operating Cost method is the best method for employers with cars being used almost exclusively for business. Such vehicles are often penalised by the Statutory Formula method.

While there might be some compliance effort associated with keeping logbooks, it is often well worth the trouble due to the size of the tax savings on offer. Some employers can save between 30% to 50% of FBT payable compared to the Statutory Formula method. Logbooks can be kept and used for a period of five years and can also be transferred to new cars provided the pattern of usage remains similar.

On the other hand, where the private use of a car is high, the Statutory Formula method often produces a lower taxable value. Due to the calculation method of the car fringe benefits under the Statutory Formula method, some employees with a high private usage of a car may benefit from salary packaging their cars.

3.1.1 Employee Contributions

The taxable value of a car fringe benefit can be reduced by an employee contribution. The contributions can be made by the employee in the following ways:

- a) by personally paying the car expenses, such as fuel, registration, insurance and repairs,
- b) by making after-tax cash contributions to the employer, and/or
- c) by way of a journal entry in the employer's account provided all the following conditions are met:
 - the employee has an obligation to make a contribution to the employer towards a fringe benefit;
 - the employer has an obligation to make a payment to the employee; and
 - the employer and employee agree to set-off the employee's obligation to the employer against the employer's obligation to the employee⁴.

Where the total employee contributions for the FBT year exceed the taxable value of the car fringe benefits, the excess amount can be carried forward to the next FBT year and offset against the taxable value of the car fringe benefits in the next FBT year.

Employee contributions are assessable income to the employer and are subject to GST if ITCs were previously claimed for the purchase costs and on-going expenses.

⁴ Taxation Ruling MT 2050

3.2 When car fringe benefit rules are not applicable

In certain circumstances the car fringe benefit rules will not apply. These are summarised in the following table.

	Description	Explanation	Alternative FBT Treatment
1	Vehicle provided to an employee is not a car	Where the vehicle provided to an employee is not a car, the Statutory Formula and Operating Cost methods cannot be used. Vehicles that are not cars for FBT purposes are: a) Motorcycles or similar vehicles; and b) Vehicles with a carrying capacity of at least 1 tonne.	These vehicles could be subject to FBT as residual fringe benefits. Where this is the case, the benefit is valued according to the ATO guidelines in MT 2034. Refer also to TD 2008/4. However, under subsection 47(6) of FBTA, these vehicles will be exempt from FBT where their private use (if any) is basically limited to: • travel between home and work, and • other private use, which is minor, infrequent and irregular. We refer you to PCG 2018/3 which outlines the ATO's compliance approach to determining the private use of vehicles.
2	The car is not held by the provider (usually the employer)	Where a car is not owned, leased, or otherwise made available to the provider (normally the employer), the Statutory Formula and Operating Cost methods cannot be used. This will commonly be the case where the car is personally owned by the employee, and the provider (normally the employer) is either: • paying the employee a fixed car allowance;	The alternative FBT treatment of each of the three common circumstances just described can briefly be summarised as follows: • Fixed car allowance – No FBT is payable and the allowance is taxable to the employee; • Reimbursement at set rate per km – Generally, no FBT is payable and the amount is taxable to the employee; or

		- reimbursing the employee on a set rate per km basis; or - reimbursing the employee for actual car expenses the employee has personally incurred, to compensate the employee for the work-related use of the car.	Reimbursement of actual car expenses – The payment of the car expense is an expense payment benefit and FBT is payable, subject to the 'otherwise deductible' rule.
3	Hire cars – where the hire period is less than 12 weeks	Where the car is hired for a period of less than 12 weeks, it is not classified as a car benefit and, therefore, the Statutory Formula and Operating Cost methods cannot be used.	These cars are treated as residual fringe benefits and their taxable value will generally be equal to the arm's length amount paid by the employer, subject to the 'otherwise deductible' rule.
4	Exempt Car benefits	A car benefit is exempt if the car is: - a taxi, panel van or utility truck - any other road vehicle designed to carry less than one tonne other than vehicles designed for the principal purpose of carrying passengers - the only private use of the car during the year was: - home to work-related travel of the employee, and - minor, infrequent and irregular other private use by the employee (or associate). A signed declaration is required to be completed for each employee for each FBT year. See 3.2.1 below regarding the provision of electric vehicles.	

3.2.1 FBT Exemption Electronic Vehicles (EVs)

From 1 July 2022, fringe benefits provided by way of eligible electric cars and their associated car expenses, are exempt from FBT provided certain criteria are met (see 2.2.1 below).

Car benefits provided for electric cars are exempt from FBT if all of the following criteria are met:

- the car is a zero or low emissions vehicle;
- the first time the car is both held and used is on or after 1 July 2022;
- the car is used by a current employee or their associates (such as family members); and

- luxury car tax has never been payable on the importation or sale of the car.

Please also note that although EV car benefits are exempt from FBT, they are still included for the purposes of determining a relevant employee's reportable fringe benefits amount. As such, employers will still need to work out the taxable value of the benefit as if the FBT exemption did not apply.

Although income tax is not paid on this amount, it can impact the employee in a range of areas (such as the Medicare levy surcharge, private health insurance rebate, employee share scheme reduction, and social security payments). An employee's own home electricity costs incurred on charging the electric vehicle would often need to be worked out. This figure can generally be treated as an employee contribution to reduce the value of the benefit.

To assist with this calculation, the ATO released **PCG 2024/2** "*Electric vehicle home charging rate - calculating electricity costs when a vehicle is charged at an employee's or individual's home*". PCG 2024/2 provides taxpayers with methodologies to calculate the cost of electricity for when an electric vehicle is charged at an employee's home. Namely, this is done through the cents per kilometre rate:

Cents Per Kilometre Rate

Rate applying to FBT year or income year commencing on and after	EV home charging rate
1 April 2022	4.20 cents per km

MKT Note

The EV home PCG 2024/2 cannot be relied upon for plug-in hybrid electric vehicles.

The following are excluded from being FBT exempt:

- Home charging stations – If an employee charges their exempt EV at home or at a commercial charging station and their employer pays for the cost, this is a separate fringe benefit (expense payment or property benefit), s53(1) provides that this benefit is also exempt as an "exempt associated benefit" on the basis the employer is providing the employee with an exempt EV;
- Where an employer reimburses an employee for the cost of purchasing and installing an electric charging station in their home, this will not be exempt as an exempt associated benefit;
- Where an employer allows employee to charge their exempt EV at work or installs a charging station on work premises, this will not trigger an FBT liability. Where the EV

is an employee's own vehicle this could potentially trigger a property or residual benefit to arise;

- The FBT exemption does not apply if the employee directly purchases or leases the EV, i.e. if an employee purchases or leases the EV directly, and the employer reimburses them under a salary sacrifice arrangement, the FBT exemption does not apply because this is not a car fringe benefit. However, the exemption can potentially apply to novated lease arrangements if they are structured carefully;
- Where Luxury Car Tax applies to the car it will never qualify for the FBT EV exemption - for example, if the EV failed the eligibility criteria in 2023-24 when it was first purchased because it was above the luxury car limit of \$89,332, the fact that it resold in 2024-25 for \$50,000 does not make it eligible for the exemption on resale.
- Not all electric vehicles are "cars" - to qualify for the exemption, the EV needs to be a car – electric bikes and scooters do not count, nor do vehicles designed to carry a load of 1 tonne or more or that carry 9 passengers or more.

4 CAR PARKING FRINGE BENEFITS

A car parking fringe benefit arises where the following requirements are satisfied:

- a car is parked on parking facilities provided by the employer and the facilities are located within 1 km of a commercial parking station;
- the operator of any such commercial parking station ordinarily charges members of the public more than the threshold (\$10.77 for the FBT year ending 31 March 2025) for all-day parking on the first business day of the FBT year;
- the car is parked for more than four hours between 7 am and 7 pm on a particular day;
- the provision of the parking facilities for the car is in respect of the employment of the employee;
- the car is parked at or near to the employee's primary place of employment; and
- the car is used for travel between the employee's place of residence and their primary place of employment.

Essentially, car parking fringe benefits deal with the issue whether the employees get an economic benefit from their car park if they would otherwise have to pay to park.

The term 'commercial parking station' is vital in determining whether a car parking fringe benefit has been provided. It means that if there is a permanent commercial car parking facility where any or all 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. In determining the distance from

a commercial car park, the route to be followed would normally be by foot, by the shortest practicable route.

The ATO issued the Taxation Ruling TR 2021/2 to replace the long-standing TR 96/26. The ruling expanded on the definition of what is a 'commercial car parking station', resulting in more car parks being considered to be commercial car parking stations. For example, car parking provided by certain shopping centres in the suburbs, not-for-profit hospitals or universities, where the car parking facilities allow all-day parking, but its fee structure discourages it with higher fees. Therefore, employers located in this area must now consider their FBT exposure under the new ATO's position. The start date for this change was 1 April 2022, that is, the 2023 FBT year.

4.1 Calculating the Benefits and Taxable Value

Once the number of car parking benefits have been determined, there are three methods of valuing the car parking benefits:

1. the commercial car parking station method;
2. the average cost method; or
3. the market value method.

Employers choose to use a different method for each car parking fringe benefit provided to employees during the FBT year.

4.2 SBE Car Parking FBT Exemption

The most common exemption relied upon by employers in a private sector is the 'small business employer' exemption. Car parking benefits provided by a small business employer are exempt from FBT provided the car is **not** parked at a commercial parking station (e.g. where the car is parked on the businesses own premises). To qualify as a small business employer, one of the following requirements must be satisfied:

1. The employer is a Small Business Entity (**SBE**) for income tax purposes (e.g. the aggregated turnover of the employer, its connected entities and affiliates is less than \$10 million) for the most recent income year ending before the relevant FBT year; or
2. The employer has annual gross income (ordinary and statutory income) of less than \$10 million, for the most recent income year ending before the relevant FBT year; or
3. The car parking benefit arose on or after 1 April 2021 and the employer would be an SBE for the year of income ending most recently before the start of the FBT year of the applicable threshold for the aggregated turnover test was less than \$50 million.

For the second requirement, the income of other companies in the same group is not taken into account in determining if the gross income threshold is exceeded.

A small business does not include a public company, a subsidiary of a public company or a government body.

Miscellaneous exemptions are also available in the following scenarios:

1. Car parking provided for a car used by a disabled employee, or
2. If the employer is:
 - a scientific institution;
 - a religious institution;
 - a charitable institution; or
 - a public educational institution;
 - a government body.

5 ENTERTAINMENT FRINGE BENEFITS

Entertainment benefits are one of the most common benefits provided by employers. For FBT purposes, entertainment by way of food or drink, including accommodation or travel which is *in connection with*, or for the *purpose of facilitating* the provision of that food or drink, is defined as **meal entertainment fringe benefits**.

In the Taxation Ruling TR 97/17, the ATO states the following four factors that should be considered in determining whether food or drink amount to entertainment:

1. **Why** the food or drink is being provided? This test 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.
2. **What** type of food or drink is being provided? As noted above, morning and afternoon teas and light meals are generally not considered to constitute 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 greater the likelihood that entertainment arises from the consumption of the meal.

For example, when an employer provides morning or afternoon teas or light meals, that food or drink does not usually confer entertainment on the employee. By contrast, a three course meal provided to an employee during a working lunch has the characteristics of entertainment. The nature of the food itself confers entertainment on the employee.

3. **When** that food or drink is being provided? Food or drink provided during work time, during overtime or while an employee is travelling is less likely to have the character of entertainment. This is because in the majority of these cases food provided is for a work-related purpose rather than an entertainment purpose. This, however, depends upon

whether the entertainment of the recipient is the expected outcome of the provision of the food or drink. For example, a staff social function held during work time still has the character of entertainment.

4. **Where** the food or drink is being provided? 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; refer to the reasons in (2) and (3) above. However, food or drink provided in a function room, hotel, restaurant, cafe, coffee shop or consumed with other forms of entertainment is more likely to have the character of entertainment. This is because the provision of the food or drink is less likely to have a work-related purpose.

It is often difficult determining whether particular meals or drinks should be treated as meal entertainment fringe benefits. We have provided a checklist at Appendix 1 of this Guide to assist with the correct treatment of meal entertainment fringe benefits.

The two most common methods of calculating the taxable value of meal entertainment fringe benefits are the 50/50 Split method and the Actual method. From experience, employers can often save more FBT by using the Actual method rather than the 50/50 Split method despite the record keeping requirements being more onerous.

5.1 Meal entertainment and the Actual method

Under the Actual method, the taxable value of meal entertainment fringe benefits provided is calculated based on the exact cost attributable to each employee and associate. Where that part of the benefit which relates to employees and their associates is not easily extracted from the available information, the ATO will accept the use of a 'per head' basis of apportionment⁵.

The potential savings of tax under the actual method is due to the availability of the following exemptions, not available under the other methods:

- **The minor benefit exemption**

If the value of a meal entertainment fringe benefit per employee is **less than \$300** (GST inclusive) and is provided infrequently and irregularly, then the benefit will be exempt from FBT.

- **The property benefit exemption**

Where the fringe benefits constitute property fringe benefits and is provided to, and consumed by, the employee on a working day and on the business premise of the employer, then the benefits are exempt from FBT. A common occurrence of this is the office Friday night drink, where finger foods and alcohol are consumed at the office.

⁵ TD 94/25

- **The exemption for taxi travel**

Under s. 58Z of the FBTA, any benefit arising from taxi travel by an employee is an exempt benefit if the travel is a single taxi trip beginning or ending at the employee's place of work. For instance, taxi travel by employees to attend the office Christmas Party or End of Year Function that begins or ends at the office is eligible for the exemption.

Where one of the exemptions applies and no FBT is payable, the expenses are not deductible for income tax purposes and no ITCs are claimable.

MKT NOTE

MKT has prepared a meal entertainment working paper template. It is designed to calculate and show the best method to use in a particular FBT year.

This will be provided as part of the MKT's 2025 FBT package.

Please contact Adriano Leon from our office if you have not received a copy yet.

5.2 Corporate Boxes

The hire of corporate boxes for sporting matches, corporate golf days and other events, provided by an employer to its employees constitutes an Entertainment Facility Leasing Expenses (**EFLE**) and is generally subject to FBT.

An EFLE is an expense incurred by an employer in the hiring or leasing of a corporate box or a boat or plane or other premises or facilities for the purposes of providing entertainment. An EFLE does not include expenses attributable to the provision of food or drink or advertising expenses. EFLEs are fringe benefits and generally subject to FBT.

The taxable values of the fringe benefits can be calculated under the actual method or 50/50 Split method. The method chosen can be different to the method chosen for the meal entertainment. So, for example, if the taxable value of the meal entertainment is calculated using the Actual method, it is still possible to use the 50/50 Split method for the EFLEs.

The minor benefits exemption is also available for EFLEs provided the conditions discussed above are satisfied. Therefore, where it is practicable, employers should try to limit the costs per head to less \$300 (GST inclusive) and/or using employee contributions to reduce the costs per head to less than \$300 (GST inclusive).

5.3 Gift Cards and Vouchers

Other common benefits provided to staff by employers are by way of giving pre-paid gift cards or vouchers. The definition of a benefit for FBT purposes is broad enough to include gift cards and vouchers provided to employees. Therefore, the provision of gift cards and vouchers are generally subject to FBT.

However, the minor benefit exemption could apply to a gift card provided to an employee. In order for a benefit valued at less than \$300 (GST Inclusive) to qualify for the minor benefits exemption, certain factors need to be considered such as:

- The infrequency and irregularity with which similar or identical benefits to the minor benefits are provided. That is, the more frequently and regularly the similar benefits are provided; the less likely they are to qualify as being exempt. We consider the provision of benefits between 1 or 2 times a month as being infrequent.
- The amount of the sum of the taxable values of minor benefits for those benefits that are similar or identical in nature. The greater the number of small benefits, the less likely it is they may qualify as exempt benefits.

Gift cards are often provided as part of a Christmas party, end of financial year function or other office functions. Based on the ATO's view as outlined in paragraph 57 of Taxation Ruling TR 2007/12, such gift cards generally do not have the character of entertainment and are considered separately to the cost of the functions for FBT purposes.

It is, therefore, important that an employer separately identifies the expenses incurred to provide the gift cards and the expenses incurred for the functions in the accounts.

5.4 GST on Entertainment Benefits

Division 69 of the GST Act⁶ operates in conjunction with the relevant provisions in the income tax and FBT laws regarding entertainment.

Based on these laws, to the extent the entertainment expenditure relates to a 'non-deductible expense' (as defined for GST purposes) then there is **no entitlement** to claim an ITC.

Thus, if the meal entertainment fringe benefits are exempt from FBT (e.g. minor benefits exemption applies), the benefits are not deductible for income tax purposes and the ITCs are also not claimable.

Entertainment	Employees	Non-Employees
Subject to FBT	✓	✗
Income Tax Deductible	✓	✗
ITCs available	✓	✗

For meal entertainment expenditure, employers can elect to use the actual or 50/50 methods resulting a GST adjustment may arise following lodgement of their FBT return.

⁶ A New Tax System (Goods & Services Tax) 1999 (Commonwealth) (GST Act)

The extent of this adjustment will depend on the amount of meal entertainment expenditure that is subject to FBT is based on the method chosen. For example, if the 50/50 method is chosen, then 50% of the meal entertainment expenditure is subject to FBT and accordingly this 50% will be income tax deductible. It follows that there will be an entitlement to claim only 50% of the ITCs on this expenditure. Where employers have claimed full ITCs during the FBT year, a GST adjustment will be required in the BAS period following the lodgement of the FBT return to repay the 50% overclaimed ITCs.

6 LIVING AWAY FROM HOME (LAFH) FRINGE BENEFITS

LAFH fringe benefits arise when an employer pays allowances or provides direct benefits to an employee, as compensation for additional non-deductible expenses and other additional disadvantages incurred by the employee because the employee is required to live away from their usual place of residence to perform the duties of that employment.

When packaging the LAFH benefits into an employee's salary, it is important to remember that the primary factor in being able to access the FBT concessions is whether an employee is considered to be 'living away from home'.

6.1 Determining the status of an employee as living away from home

An employee who is living away from home to perform their employment duties should be distinguished from an employee who is travelling in the course of performing their employment duties (e.g. work-related travel). An employee is living away from home when the employee has moved and taken up temporary residence away from his/her usual place of residence, in order to carry out employment duties for a time at the new (but temporary) workplace. That is, there is a change of job location and an actual change of residence to a place at or near that location as opposed to the employee who simply travels to carry out the requirements of the job. Further, where an employee is living away from home, it is more common for that employee to be accompanied by their spouse and family.

The ATO has issued TR 2021/4 and PCG 2021/3 to address the income tax and FBT issues in this area. The ruling effectively reinstates the well-established principle: accommodation, food and drink expenses are living expenses and are ordinarily private or domestic in nature. For employers providing accommodation, food and drink to employees, they are generally subject to FBT.

However, the accommodation and food and drink expenses are nevertheless deductible to the employees where they have a sufficiently close connection to the performance of the employment duties and activities through which the employee earns income. This requirement is met where an employee is required by their employer, as an incident of their employment (that is, the duties of employment), to stay away from their usual residence overnight for **relatively short periods of time**.

The period away from the employee's usual place of residence must be for relatively short periods of time. The longer the time away, the more likely the expenses will be treated as 'living away from home' and the expenses become private or domestic in nature. The ATO has helpfully reinstated the old rule of thumb in the PCG 2021/3 to assist with the distinction between work-related travel and living away from home.

ATO will accept that an employee is undertaking work-related travel where the following circumstances are satisfied:⁷

The Employer	The Employee
- provides an allowance to an employee or pays or reimburses accommodation and food and drink expenses for the employee - does not provide the reimbursement or payment as part of a salary-packaging arrangement and the employee is not given the option to elect to receive additional remuneration in lieu - includes the travel allowance on the employee's payment summary or income statement and withholds tax, where appropriate, and - obtains and retains the relevant documentation to substantiate the fact that all of these circumstances are met.	- is away from their normal residence for work purposes - does not work on a fly-in fly-out or drive-in drive-out basis - is away at the same work location for no more than 21 calendar days at a time continuously - is away at the same work location for no more than 90 calendar days in total in an FBT year, and - must return to their normal residence as soon as practicable when their period away ends.

6.2 LAFHA or LAFH Fringe Benefits

The payments of LAFHA or the provision of LAFH fringe benefits are exempt from FBT for a maximum of 12 months if all the following requirements are satisfied:

- an employee whose duties of employment require them to live away from their normal residence; and
- the employee maintains a home in Australia at which they usually reside.

Normal residence is defined as:

- the employee's usual place of residence if that is in Australia; or

⁷ See paragraph 12 of PCG 2021/3

- if the employee's usual place of residence is not in Australia, either the employee's usual place of residence or the place in Australia where the employee usually resides while in Australia.

To maintain a home in Australia, the employee, or their spouse, must have an ownership interest in a unit of accommodation and that home must be available for their immediate use and enjoyment at all times while they are living away from it. It must also be 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.

This means the home cannot be rented out or sub-let while they are living away from it. If an individual 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 provided the boarder's stay does not impinge on the availability of the residence for the individual's immediate and reasonable use and enjoyment.

6.2.1 FIFO and DIDO Workers Exceptions

Importantly, the rules do NOT apply to employees who are working on a 'fly in fly out' (FIFO) or 'drive in drive out' (DIDO) basis. There is no requirement to maintain a home in Australia and the concession is not limited to a period of 12 months for these employees. However, they still must substantiate expenses incurred on accommodation, and food or drink beyond the Commissioner's reasonable amount, and provide the employer with a declaration relating to living away from home.

A work arrangement satisfies the FIFO or DIDO requirements if all the following conditions are satisfied:

- On a regular and rotational basis, the employee works for several days and has a few days off which are not the same days in consecutive weeks.
- The employee travels to their work location during their days on and returns to their home during their 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 their days off.
- It is unreasonable to expect the employee to travel to their work location from their home and back again daily, given the locations of the two places.
- It is reasonable to expect that the employee will resume living at their home when the employment duties no longer require them to live away from home.

6.2.2 Substantiation and Record Keeping Requirements

Employers and employees must be able to substantiate expenses incurred on accommodation, and food or drink beyond the Commissioner's reasonable amount. Where the food amount does

not exceed the Commissioner's reasonable amounts (refer to TD 2022/2 for 2025 FBT year), there is no requirement to substantiate the expenses.

Furthermore, employees must provide their employer with a signed declaration, in a form approved by the Commissioner, setting out the following details:

- the address of the place in Australia where the employee usually resides when in Australia, has an ownership interest, and that the residence continues to be available for immediate use and that it is where the employee expects to return; and
- the address of each place where the employee actually resided during the period to which the benefit relates.

A valid LAFH declaration is required to be completed for each FBT year. Please refer to the 2025 MKT Declaration Forms for the relevant forms.

An alternative record option is available from 1 April 2024 onwards for the following records:

- **Living-away-from-home-allowance – FIFO/DIDO declaration**
 - see links on [legislative instrument](#) and [explanatory statement](#) for details.
- **Living-away-from-home – maintaining an Australian home declaration**
 - see [legislative instrument](#) and [explanatory statement](#) for details
- **Otherwise deductible rule – expense payment, property or residual benefit declaration**
 - see [legislative instrument](#) and [explanatory statement](#) got details.

6.2.3 Other LAFH-related Exemptions

Some other LAFH-related exempt benefits in the FBTA include the following:

- **Exempt expense payment benefit (S.21 of FBTA)** – Accommodation and living away from home. Where expenditures reimbursed by an employer in respect to accommodation while employees are required to live away from home, the benefits are exempt benefits provided the following requirements are satisfied:
 - The expenditures must have already been incurred by the employee, although they do not have to be actually paid. Where expenditure is yet to be incurred, an amount paid by an employer to an employee constitutes an allowance and is an assessable income of the employee⁸.
 - The expenditures must be substantiated. Employers will be required to obtain documentary evidence from employees to substantiate the expenses incurred on

⁸ See TR 92/15 for the ATO's view of the difference between an allowance and a reimbursement

accommodation. This evidence could include lease agreements, mortgage documents and receipts for accommodation.

- The exemption is also available to temporary resident employees who maintain a home for their use in Australia and are required to live away from usual place of residence to perform their work.
- **Exempt residual benefit (S.47(5) of FBTA)** – Accommodation and living away from home. This benefit arises where an employer directly provides a unit of accommodation to an employee, instead of by way of a reimbursement. This arrangement is common under a fly-in fly-out arrangement.

7 REMOTE AREA BENEFITS

These types of benefits are available to employers who are based in remote areas or have business operations in remote areas.

7.1 Definition of Remote Area

For most employers, accommodation is in a remote area if it is not in or near an urban centre. That is, the accommodation must be located at least 40 kilometres from a town with a census population between 14,000 and less than 130,000 or at least 100 kilometres from a town with a census population of 130,000 or more (population figures based on the 1981 Census).

Further, accommodation is also in a remote area for FBT purposes if it is in Zone A or B for income tax purposes. That is, it must be located at least 40 kilometres from a town with a census population between 28,000 and 130,000, or at least 100 kilometres from a town with a census population of 130,000 or more. The Taxation Ruling TR 94/28 provides a list of areas for zone rebate purposes. The ATO has also provided a list of eligible urban, remote and non-remote areas for FBT purposes⁹.

7.2 Remote Area Housing Benefits

A full exemption is available where a remote area benefit constitutes a housing fringe benefit, and the relevant requirements are satisfied. A housing fringe benefit arises where an employer grants an employee a right to occupy a unit of accommodation as their usual place of residence¹⁰. This applies where an employer owns or leases the house and provides it to an employee for their accommodation. The accommodation could be in a:

- house, flat or home unit
- hotel, motel, guesthouse, bunkhouse

⁹ <https://www.ato.gov.au/businesses-and-organisations/hiring-and-paying-your-workers/fringe-benefits-tax/types-of-fringe-benefits/accommodation-and-location-related-fringe-benefits/remote-area-fbt-concessions/fringe-benefits-tax-remote-areas>

¹⁰ s. 25 of the FBTA

- caravan or mobile home, or
- ship or other floating structure.

For a housing benefit in relation to a unit of accommodation to qualify for the remote area housing exemption, the following two requirements must also be satisfied:

1. the employee's usual place of employment is in a remote area; and
2. it is necessary for the employer to provide accommodation to employees because:
 - a) the nature of the employer's business is such that employees are likely to move frequently from one residential location to another, or
 - b) there is not sufficient suitable residential accommodation otherwise available in the area in which the employee is employed, or
 - c) it is customary in the employer's industry to provide free or subsidised housing to employees.

The ATO accepts that it is customary to provide a benefit 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 benefits¹¹. It is not necessary that all or even the majority of employees in the industry receive the benefit. Where the provision of the benefit is unique, rare or unusual within an industry it would not be accepted as being customary.

7.2.1 Non-arm's Length Arrangement or Tax Avoidance Purpose

The remote area housing exemption is not available if the housing benefit is provided under a non-arm's length arrangement or under an arrangement which has a purpose of obtaining the exemption¹². Although the provision may potentially have a very wide application, the ATO stated that it would not be interpreted strictly but would only be applied in appropriate avoidance-type cases¹³.

The ATO further provides examples of common arrangements where it did **not** apply the anti-avoidance provision as the arrangements in question were seen as being ordinary business dealings that were customary in the employer's industry, as follows:

- the employer entered into a new rental agreement with a landlord for a residential property immediately after the completion of the employee's rental agreement on the same property with the same landlord and provided the employee with the right to occupy the unit of accommodation¹⁴; and
- the employer provided a rental property to a new employee under a salary sacrifice arrangement on the hiring of the new employee¹⁵.

¹¹ paragraph 2 of the Taxation Determination 94/97

¹² s. 58ZC(2)(e) of the FBTA

¹³ Minutes of the meeting on 24 August 2000 of the FBT Subcommittee of the National Tax Liaison Group

¹⁴ ATO ID 2002/412

¹⁵ ATO ID 2010/182 (withdrawn but the principles still apply)

In the first point above, the employer customarily provides residential accommodation to staff in remote areas. The employee had leased a house privately and paid the rent from after tax earnings. The employer proposes to enter into a new rental agreement with the landlord immediately after the completion of the employee's rental agreement on the same property with the same landlord and provide a housing benefit to the employee as the employee's usual place of residence. The ATO concluded that the arrangement was entered into for the purpose of enabling the employer to obtain the exemption.

On the other hand, the anti-avoidance provision may apply and, therefore, the exemption is not available where there is a novation of an existing rental agreement between the landlord, the employee and the employer¹⁶. Further, the ATO in a Private Binding Ruling¹⁷ has applied the anti-avoidance provision in the following circumstances:

- the employee has an existing rental agreement and then enters a sub-lease with the employer who then grants the employee a right to occupy the unit of accommodation at no cost; or
- the employee purchases a property in the remote area location and then leases it to the employer who then grants the employee a right to occupy the unit of accommodation at no cost.

Based on the above examples, the anti-avoidance provision should not apply to an arrangement where there are no overt acts by which the ATO could determine that the arrangement is implemented by any of the parties for the purpose of allowing the employer to enjoy the benefits of the tax exemption and the arrangement can be explained as being one of ordinary business dealings as is customary in the employer's industry. For example, an 'overt act' may involve an alteration (by way of a novation, sub-lease, buy and lease, etc.) to an existing agreement for the purpose of obtaining the exemption.

7.3 Remote Area Housing Assistance

A 50% reduction of the taxable value of the benefits is available for a remote area housing benefit that is not a housing fringe benefit if the benefit qualifies as remote area housing assistance under certain conditions¹⁸. Broadly, these conditions are that if the benefit provided was a housing fringe benefit, then it would be a remote area housing fringe benefit. The requirements of the remote area housing benefit exemption are discussed at 6.2 above.

The common examples of remote area housing assistance include the following benefits:

- the employer pays or reimburses an employee for rent personally incurred; and
- the employer pays or reimburses the employee for the interest expenses on a housing loan in connection with a remote area house.

¹⁶ ATO ID 2001/761

¹⁷ PBR 20773

¹⁸ s. 60 of the FBTA

The remote area housing assistance concession is available if the following requirements are satisfied:

1. the recipient is an employee of the employer;
2. the expenditure is in respect of 'remote area housing rent' or interest in respect of a 'remote area housing loan connected with a dwelling';
3. the recipient occupied or used the dwelling as their usual place of residence during the period in which the rent or interest accrued; and
4. the fringe benefit must not be provided under either a non-arm's length arrangement, or an arrangement entered into for the purpose of obtaining the FBT concession¹⁹.

In turn, a 'remote area housing loan connected with a dwelling' is defined as a housing loan where:

- the employee occupied the dwelling as his or her usual place of residence;
- it is customary for employers in the industry to provide housing assistance; and
- it would be concluded that it was necessary for the employer to provide housing assistance due to the nature of the employer's business requiring employees to frequently change their place of residence, or there was not sufficient suitable residential accommodation near the employment place²⁰.

7.4 Remote Area Residential Fuel Concessions

Where an employer supplies, pays for, or reimburses the cost of electricity, gas or other residential fuel, in connection with the following benefits:

- a housing benefit that qualifies as a remote area housing benefit (refer above);
- remote area housing assistance in the form of an interest-free or low-interest loan; or
- remote area housing assistance in the form of the payment or reimbursement of an employee's rent;

the taxable value of the benefit is reduced by 50%.

Common examples of remote area residential fuel are electricity and gas (but not water).

7.5 Other Remote Area Concessions

Other remote area-related concessions include (but not limited to):

- Remote area home ownership schemes;
- Remote area holiday transport;
- Fly-in-fly-out transport where transport is provided to employees who work in remote areas or who work on oil rigs or other installations at sea; and
- Fly-in-fly-out meals and accommodation where employees are living away from home.

¹⁹ s. 60(2) and 16(2A) of the FBTA

²⁰ s. 142(1) of the FBTA

MKT NOTE

From our experience, many employers that are based in the remote areas or have business operations in the remote areas (especially small to medium sized businesses) are either not aware of these concessions or believe it is too hard for them to offer these concessions to their employees as part of their employee remuneration package.

Salary packaging remote area benefits can help employers offer a more competitive remuneration package and could increase the overall value of the remuneration offered potential employees to help attract candidates and retain valuable employees.

Employers can also potentially save on their payroll taxes as most of these benefits are exempt from payroll tax (at least in Western Australia).

If you would like to find out how you and your employees may benefit from the remote area benefits, please contact Mimi Ngo of our office.

8 BENEFITS PROVIDED BY A THIRD PARTY

To be subject to FBT, it is not necessary for a benefit to be provided by the employer. Where a benefit is provided by a third party **under an arrangement** with the employer or associate of the employer, the employer may also be liable for FBT on the provision of the benefit. This is commonly referred to as the third-party arranger provisions.

An 'arrangement' for FBT purposes is broadly defined to include any agreement, undertaking, understanding or promise whether expressed or implied. Whether an arrangement exists depends on the facts of the case.

An employer is caught under the provisions where the employer (or an associate of the employer) participates or facilitates in the receipt of the benefit or promotes any scheme or plan involving the provision of the benefit. In FBT States and Territories Industry Partnership minutes of 21 March 2018, the ATO provides the following illustration as to how the third-party arranger provisions may apply:

'STIP minutes from 6 October 2000 provide a useful analysis of the third party arranger provisions. The example differentiates where a third party provides tickets directly to employees of their top 50 clients, where the employer was not aware of the ticket allocation process (no fringe benefit arises). This is contrasted with the scenario where the employer recommends which employees should receive the tickets from the third party, and allows their employees to attend in work time, including paying for the airfares of the employees. In this case, the arranger provisions will apply as the employer has participated in the provision of the benefit.'

Based on the limited facts provided, it has been assumed the employer chose the employee to attend the function at the other organisation as a representative of their

employer. The employee was provided with food and drinks which are considered meal entertainment. Therefore, a meal entertainment fringe benefit has been provided.'

Therefore, it seems from the examples provided above that an employer needs to have some involvement in order for the third party arranger provisions to apply. The provisions may apply to common situations, such as an employee representing an employer in an event, such as corporate box, formal lunches and other sporting events, held and paid by a third party (e.g. supplier, customer, etc).

MKT NOTE

In practice, it may be difficult for an employer to obtain the relevant information from the third party in order to calculate the taxable value of the benefits provided to the employees. If, after all reasonable efforts have been made to obtain the information the third party is not willing or able to do so, the employer is not required to keep the required records. A reasonable estimate of the cost of the benefits is sufficient.

Though, if the third party is not willing or is unable to provide the required information, it is arguable that there is no 'arrangement' between the employer and the third party. This means the FBT arranger provisions may not be satisfied, and the benefits are not subject to FBT.

8.1 Potential Solutions

Where benefits are caught under the FBT arranger provisions, consideration should be given as to whether the benefits may be eligible for FBT exemption. For example, many entertainment-related benefits caught under the FBT arranger provisions may be exempt under the minor benefits exemption.

Alternatively, consideration should be given to the availability of the Otherwise Deductible rules that may reduce the taxable value of the benefits to the extent that the employee would have been entitled to a 'once-only deduction' had the employee incurred the expenditure themselves.

Lastly, if the employee makes an after-tax contribution to the amount of the benefits provided by the third party, the taxable value can be reduced accordingly by that contribution. The contribution can be made to the third party or the employer.

9 APPENDIX 1 - MEAL ENTERTAINMENT CHECKLIST

Situations When Food or Drink Provided	Meal Entertainment?	
	Yes	No
1. Food or drink consumed on employer's premises by employees, associates and clients e.g. morning & afternoon tea and light lunches		✗
2. Food or drink consumed on employer's premises by employees, associates and clients at a social function (Friday night drinks would be meal entertainment)	✓	
3. Food or drink consumed off the employer's premises by employees, associates and clients at a social function or business lunch	✓	
4. Alcohol provided at the conclusion of a CPD seminar with finger foods		✗
5. Food or drink consumed by employees while travelling on business:		
a. Employee travels and dines alone		✗
b. Two or more employees travel and dine together		✗
c. Travelling with client and dine together		✗
d. Employee dines with a non-travelling other employee, client or accompanying spouse:		
• Travelling employee's meal		✗
• Non-travelling employee, client or spouse's meal	✓	
6. Employer pays for all meals for employee and client where the employee is travelling with the client.		✗
7. Employees dining with other employees of the same employer or with employees of associates of the employer:		
a. employee entertains another employee and is reimbursed by the employer	✓	
b. employee entertains an employee of associated company of the employer and is reimbursed (employer's employee expense payment benefit) (associate's employee property benefit)	✓	
8. Meal consumed by employees while attending a seminar:		
a. light breakfast provided at a CPD seminar that does not satisfy section 32-35		✗
b. light refreshments incl. moderate amount of alcohol provided immediately after a CPD seminar that does not satisfy section 32-35		✗
Note: Section 32-35 allows for a deduction for food, drink, accommodation or travel for a seminar lasting for at least 4 hours. But it does not apply to seminars that are business meetings, or to promote or advertise a business or provide entertainment as its main purpose		

Situations When Food or Drink Provided	Meal Entertainment?	
	Yes	No
9. Food or drink consumed by employees at promotions where the function not held on employer's premises and is open to the public	✓	
10. Meals provided under an arrangement where the client does not facilitate or promote an arrangement where its employee is taken out to lunch by another employer		
a. client's employee		✗
b. employee of other employer	✓	
11. Use of corporate credit card where employees dine together at a restaurant and the meal is paid for with the credit card	✓	
12. Employee who holds a restaurant discount card entertains a client:		
a. employee – ½ total discounted price	✓	
b. client- ½ total discounted price	✓	
13. A business lunch at a café or restaurant.	✓	
14. Food and drink consumed in a corporate box or marquee as part of a sporting/similar event.	✓	
15. Weekend planning retreat held by employer at a hotel complex with conference facilities:		
a. Sandwiches/finger food & soft drinks provided during lunch		✗
b. Basic dinner held on hotel premises with no alcohol and no entertainment	✓	
c. Basic dinner held on hotel premises with no alcohol and associated entertainment (i.e. live band or floor show)	✓	
d. Dinner held off hotel premises (e.g. Local restaurant) where employees can choose anything from the menu (including lavish meals) with alcohol being consumed.	✓	
16. Food gifts to employees, clients, suppliers, etc – bottle of wine, a Christmas hamper or similar food baskets, etc		✗
17. Food or drink consumed by employee while working overtime:		
a. Consumed on business premises		✗
b. Consumed at a cafe		✗

10 APPENDIX 2 –FBT 2025 RATES & THRESHOLDS

The thresholds below are for the FBT year commencing 1 April 2024.

Type		Comment
Car parking threshold	\$10.77	Where the lowest fee charged to the public on the first (business) day of the 2025 FBT year for all-day parking (i.e., parking for at least six continuous hours between 7am and 7pm) by any commercial car parking station within a one-kilometre radius of the premises on which the car is parked was more than \$10.77, a car parking fringe benefit will generally arise.
Benchmark interest rate	8.77%	The rate of 8.77% is used to calculate the taxable value of: (a) a loan fringe benefit ²¹ ; and (b) a car fringe benefit.
FBT reportable benefit threshold	\$2,000	The FBT income statement/payment summary reporting rules will only apply where the total (non-grossed up) taxable value of reportable fringe benefits provided to an employee (by an employer) during the 2025 FBT year (i.e., the employee's Individual Fringe Benefits Amount ('IFBA')) exceeds \$2,000.
Record keeping threshold	\$10,334	The record-keeping exemption ('RKE') threshold for the FBT year commencing 1 April 2024 is \$10,334.
FBT rate	47%	An employer's 2025 FBT liability is calculated by applying the FBT rate of 47% to the employer's fringe benefits taxable amount (i.e., basically, the sum of the grossed-up taxable values of all Type 1 and Type 2 fringe benefits).
Type 1 Benefit	2.0802	Benefits for which the provider (e.g., the employer) is entitled to claim any input tax credit in respect of the acquisition of the benefit.
Type 2 Benefit	1.8868	Benefits for which the provider (e.g., the employer) is not entitled to claim an input tax credit in respect of the acquisition of the benefit.

²¹ (other than a loan benefit excluded from the definition of 'fringe benefit' under paragraphs (r) and (s) in S.136, under Division 7A of the ITAA 1936)

Type	Comment			
FBT-exempt employers	The amount of exempt benefits that can be provided to an employee			
	Type of Employer	Grossed-Up Taxable Value (per employee)	Non-Grossed up taxable value equivalent	
			Type 1	Type 2
	Hospitals (public and non-profit) & public ambulance services	\$17,000	\$8,172	\$9,009
	Public benevolent institutions (PBIs)	\$30,000	\$14,421	\$15,899
FBT-rebateable employers	The amount of fringe benefits that can be provided to an employee for which the 47% FBT rebate can be claimed.			
	Type of Employer	Grossed-Up Taxable Value (per employee)	Non-Grossed up taxable value equivalent	
			Type 1	Type 2
	FBT-rebateable employers	\$30,000	\$14,421	\$15,899