

**March 2018**

***In our 2018 FBT year end issue of FBT Talk, we provide you with a checklist of Key FBT Tips, look at the ATO spotlight on Small Business FBT and share the new 2019 FBT rates and thresholds...***

*It is important that all businesses are aware of their FBT obligations. The ATO have concerns that Small Businesses are not aware of their FBT obligations.*

### **2018 FBT – ready, set, sprint!**

For all employers, big or small, for profit or not for profit, FBT year end and the subsequent FBT reporting season can be a challenging time. If FBT has not been monitored or revisited since this time last year, this may present an even greater challenge. Remembering that for those employers who lodge direct with the ATO, there are only 51 days, including weekends and a few public holidays, in which to analyse data, clarify facts and circumstances, prepare calculations, complete the FBT return form, review (yes, a review is a good idea) and lodge the 2018 FBT return. In short, FBT is a sprint, with plenty of hurdles to jump.

### **2018 FBT – the year of change**

There is a lot of change happening or due to happen in the FBT world, most of which must be considered for FBT 2018 as follows:

- A. Changes to FBT rate – 49% down to 47%
- B. Change in the gross up rate – Type 1 from 2.1463 down to 2.0802
- C. Change in the gross up rate – Type 2 from 1.9608 down to 1.8868
- D. Change in the rebate rate – 49% down to 47%
- E. Changes in the threshold caps for Exempt and Rebatable employers
- F. Draft ruling travel v living away from home - was due to be finalised in December 2017 however the ATO have delayed finalisation of the ruling until a yet to be determined date:
  - ▶ Removal of the outdated 21-day rule (MT 2030);
  - ▶ Recognising that travel may be for periods of up to 3 months, in some cases longer; and

- ▶ Acknowledging that employees may have two places of work.
- G. Draft rules on claiming exemption for work vehicles, allowing for private use. These draft rules are due to be finalised in April 2018 and will apply to the 2018 FBT year:
- ▶ 2 kilometre diversions on way to work and on the way home are acceptable;
  - ▶ A total of 750 private kilometres in a FBT year are allowed; and
  - ▶ An individual return trip of up to 200 kilometres is allowed.
- H. The ATO position on what constitutes a commercial parking station was expected to be clarified in the release of updated ruling TR 96/26. This was due to be released prior to Christmas but is now due to be released by middle of this year – so will not have application to the 2018 FBT year.
- I. We are further waiting for ATO guidance on Taxi vs. Uber, noting the GST rules have a consistent treatment for Taxi and Uber but the FBT definition of Taxi does not include Uber or Ride Sharing Arrangements
- J. What we're **not** waiting on – the ATO was due to provide guidance on minor benefits prior to Christmas. The ATO changed their mind on this and decided against providing guidance. There is no clear timeline of when guidance may be provided by the ATO in the future.

FBT Audit activity – the ATO have announced the following key focus areas:

- ▶ **LAFHA** – ensuring that reductions are only applied for eligible employees and employers have the correct substantiation
- ▶ **Motor Vehicles** – ensuring private usage is recognised and claims for exemption meet the criteria
- ▶ **Car Parking Market Valuation** – the ATO have claimed that some market valuations are too low
- ▶ **Employee Contributions** – ensuring that the GST and Income Tax obligations on employee contributions are being met
- ▶ **Employers** – focus on employers who are incorrectly claiming Rebate status, when not actually entitled to do so.

## 2018 FBT Year End Tips

Keeping in mind the above changes and ATO focus areas, here are some key year end FBT tips to help get you across the FBT finish line:

### Motor Vehicles

#### **Logbooks**

1. Before reducing the taxable value by the business use percentage, a valid and current logbook must be available.
2. Logbooks are not a set and forget scenario. Each non-logbook year it is necessary for the employer to estimate the business use percentage.
3. If your employees prepare logbooks, then it is important that they are carefully reviewed for compliance

#### **Exempt vehicles**

With PCG 2017/D14 due to be finalised in April 2018, the application of the final PCG will apply for the 2018 FBT year. Have you considered whether the private usage of your work-related vehicles is within the proposed safe harbour guidelines provided?

If you have vehicles that do not qualify for exemption, then it is important to remember what your valuation options are limited to the following:

#### **For Vehicles under 1 tonne (car)**

You can value the fringe benefit using either:

1. Statutory Formula Method; or
2. Operating Cost Method (Logbook required)

#### **For Vehicles over 1 tonne (non-car, residual benefit)**

You can value the fringe benefit using either:

1. Operating Cost Method (Logbook required); or
2. Cents per KM Method but only if there has been limited private travel

The Statutory Formula Method is not allowed for vehicles over 1 tonne. The implication of this is that in the absence of a Logbook, 100% of the operating costs are subject to FBT.

### Car Parking

*Location, location, location!*

Some key reminders (and a few do nots!) for car parking:

- Ensure that you have identified all employee parking locations in Australia;
- Don't blindly follow the process in the prior year/s – the business may have changed, new additions, new locations;
- Don't assume that there are no commercial parking stations within a 1-kilometre radius;
- Don't assume that the early bird rate is the lowest daily rate available, periodic rates can often result in lower daily rates;

- Don't assess whether you are liable at a location based on current daily rates – the threshold test must be carried out with reference to the lowest rate on the first day of the FBT year – being 1 April 2017; and
- When using the statutory formula method, it is not possible to reduce the 228 days by any days where a parking benefit has not been provided.

### Employee reimbursements

- To the extent a reimbursement is a combination of business and private, it will be necessary to obtain from the employee a declaration supporting the application of the otherwise deductible rule

### Relocations Permanent / Temporary, Extended Travel, Living Away From Home

Before diving in to the FBT Preparation, we recommend identifying those employees who have relocated during the period or continue to be on relocation, classifying between:

1. Relocated Temporarily - Local
2. Relocated Permanently - Local
3. Relocated Temporarily – From / to overseas
4. Relocated Permanently – From / to overseas

For each of the above scenarios (employees), what financial assistance has been / will be provided?

- A. By way of reimbursement
- B. Paid direct by the employer
- C. Provided directly by the employer
- D. Paid by way of Allowance
- E. Provided or reimbursed by way of Salary Packaging

The application of the various exemptions and concessions in the FBT law will ultimately depend on the employee's own relocation circumstances, hence the need to classify the relocation type. Once the type of relocation is established, then the FBT exemptions and concessions can be applied to the financial assistance.

### Minor Benefits Exemption – think broadly when preparing your FBT return

Remember that the minor benefits exemption can be claimed (\*) in multiple parts of the FBT law.

- ▶ Meal Entertainment – actual method
- ▶ Recreational entertainment – actual method
- ▶ Awards – ad-hoc
- ▶ Property benefits - gifts
- ▶ Loans – less than \$300 notional interest in FBT year

\*Note that restrictions apply to tax exempt entities

### The burden of proof is always with the employer

All employers must remember that the burden of proof will always rest with them.

Therefore, if your employee completes a declaration, fills out a logbook or provides documentation with the aim to support a reduction in taxable value, the employer must

review what the employee provides and ensure it is compliant or meets the requirements to claim a reduction in taxable value.

If the employer believes that the requirements are not met, then a reduction in taxable value should not be applied.

## Small Business and FBT

In this FBT Talk, we look at some of the key areas that Small Businesses must consider for FBT Reporting in 2018. Small businesses in Australia employ a staggering 5.6 million people. This creates a FBT Compliance obligation but also opportunities in relation to FBT concessions and exemptions and Salary Packaging. We'll cover the Salary Packaging opportunities in next month's Salary Packaging Talk.

## FBT Registration and Lodging FBT Returns

To be or not to be, that is the FBT registration dilemma.

There is a lot of confusion regarding whether small businesses or not for profit organisations should register for FBT and lodge FBT returns.

## What we hear

When we talk to small businesses or their external accountants, this is what we often hear in relation to FBT obligations:

- ▶ *"We don't really provide any fringe benefits"*
- ▶ *"We manage "tax" on benefits by treating entertainment and car expenses as non-deductible"*
- ▶ *"We don't claim FBT" – (We are not even sure what this means!)*
- ▶ *"We try to avoid FBT any way we can"*
- ▶ *"We don't think registration is necessary"*
- ▶ *"The ATO don't audit FBT"*

## What we say

Our view on this topic is that businesses who employ people should be registered for FBT. It's good practice, it means you understand your FBT obligations and provides protection on time limits:

- ▶ If you employ people, you should be registered for FBT;
- ▶ If you don't believe you have a liability – lodge a Notice of Non-Lodgement or Nil Return;
- ▶ **If you're not sure, obtain a second opinion. The burden of proof and liability is on the employer;**
- ▶ If you're not registered, you're not protected by audit time limits.

**Warning:** we understand that the ATO are considering self-registration of businesses for FBT (ie. the ATO will be voluntarily registering employers for FBT).

## Small business car parking exemption

An exemption applies to car parking benefits provided in respect of the employment of an employee if all of the following conditions are satisfied:

- ▶ The car is not parked at a commercial parking station;  
The employer is neither a public company nor a subsidiary of a public company on the day on which the benefit is provided;
- ▶ The employer is not a government body of a state or of a territory; and
- ▶ Either the employer is a “small business entity” for the year of income ending before the start of the FBT year or the employer’s ordinary and statutory income for the income year ending most recently before the start of the FBT year is less than \$10m. The employer’s income is calculated on a single entity basis rather than a group basis.

## Small Business FBT and ATO’s 2018 agenda

The ATO are “hoping to assist small businesses to create a level playing field for all businesses by ensuring that everyone pays the right amount of tax.”

The ATO’s focus for 2018 will be on smaller tax avoiders such as small businesses.

The ATO have updated the expense payment fringe benefit declaration form, adding a line that requires individual employees to declare they understand they cannot claim income tax deductions for business expenses reimbursed by their employer.

***“I understand that any work expenses reimbursed by my employer are not deductible in my personal income tax return”***

## Expense payment fringe benefit declaration



I,  (name of the employee)

declare that  (show nature of expense eg. telephone rental and/or calls)

were provided to me by or on behalf of my employer during the period from

Day	Month	Year	to	Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>

and the expenses were incurred by me for the following purpose(s)  
(Please give sufficient information to demonstrate the extent to which the expenses were incurred by you for the purpose of earning your assessable income.)

I also declare that the percentage of those expenses incurred in earning my assessable income was  %.

I understand that any work expenses reimbursed by my employer are not deductible in my personal income tax return.

Signature

Date  
Day / Month / Year  
 /  /

## 2019 FBT Statutory Rates and Thresholds

The ATO has released the following determinations relating to FBT rates and thresholds applicable for the 2018/19 FBT year:

### Record-keeping exemption

Taxation Determination TD 2018/5 provides that the **exemption threshold under s 135C of the FBT Act for the FBT year commencing on 1 April 2018 is \$8,552.**

This replaces the amount of \$8,393 that applied in the previous year commencing 1 April 2017.

### Non-remote housing factors

Taxation Determination TD 2018/1 provides **the indexation factors for valuing non-remote housing for the FBT year commencing on 1 April 2018:**

New South Wales	1.024	Western Australia	0.924
Victoria	1.018	Tasmania	1.040
Queensland	0.999	Northern Territory	0.932
South Australia	1.004	Australian Capital Territory	1.016

### Rates for private use of vehicle

Taxation Determination TD 2018/4 provides 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 FBT year commencing on 1 April 2018:**

Engine capacity	Rate per kilometre
0–2,500cc	54 cents
Over 2,500cc	65 cents
Motorcycles	16 cents

### FBT benchmark interest rate

Taxation Determination TD 2018/2 provides that the benchmark interest rate to be used for **the FBT year commencing on 1 April 2018 is 5.20% pa (replacing the rate of 5.25% for the FBT year commencing 1 April 2017)**

The benchmark interest rate is used to calculate the taxable value of a fringe benefit provided by way of a loan and a car fringe benefit where an employer chooses to value the benefit using the operating cost method.

### FBT Reasonable Food and Drink Expenses for employees living away from home

Taxation Determination TD 2018/3 sets out the amounts that the Commissioner considers reasonable for food and drink expenses incurred by employees receiving a living-away-from-home allowance (LAFHA) fringe benefit for the FBT year commencing on 1 April 2018.



Where the total of food and drink expenses for an employee (including eligible family members) does not exceed the amount the Commissioner considers reasonable, those expenses do not have to be substantiated. If an employer wants to reduce the taxable value of an employee's LAFHA fringe benefit by the exempt food component, the expenses must be either:

- equal to or less than the amount the Commissioner considers reasonable, or
- substantiated.

If an employee's total food or drink expenses exceeds the amount the Commissioner considers reasonable, the substantiation provisions will apply.

**Reasonable amount for food and drink — in Australia**

**Table 1** below sets out the weekly amounts the Commissioner considers to be reasonable food and drink amounts for a LAFHA paid to employees living-away-from-home within Australia for the FBT year commencing on 1 April 2018. These amounts are for the total of food or drink expenses and include any amounts that may have been allowed for home consumption.

<b>Table 1: Reasonable food and drink amounts — in Australia</b>	
	<b>Per week (\$)</b>
One adult	265
Two adults	398
Three adults	531
One adult and one child	332
Two adults and one child	465
Two adults and two children	532
Two adults and three children	599
Three adults and one child	598
Three adults and two children	665
Four adults	664

Note: "Adults" for this purpose are persons who had attained the age of 12 years *before* the beginning of the FBT year.

In relation to larger family groupings, the Commissioner accepts the reasonable food and drink amount based on the above figures plus \$133 for each additional adult and \$67 for each additional child.

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## Next Month on FBT Talk

In our next FBT Talk issue, we will be covering Salary Packaging:

1. What are the big Salary Packaging questions?
2. Flexing the power of Salary Packaging
3. The importance of written Policies
4. FBT Exempt and Rebatable Employers – the keys to Salary Packaging success
5. Documentation and substantiation
6. Employee savings – giving your employees a pay rise without any additional employer cost

If you are looking for FBT assistance, FBT Solutions is Australia's only dedicated FBT practice offering end-to-end FBT and Salary Packaging services including:

- FBT Return Full Outsource / Review and Lodgement
- Car Parking Valuations
- Electronic Logbook Solution
- FBT Advisory and Consulting
- Managing FBT Audits
- FBT Training
- Salary Packaging Outsource

## FBT and Salary Packaging Training

### 2018 FBT Workshops

We delivered full day 2018 FBT workshops across Australia in March 2018, providing FBT return preparers with the knowledge and tools to efficiently and effectively prepare the 2018 FBT return. Due to popular demand, we are running an additional workshop in Sydney as follows:

1. Sydney: Tuesday 10 April 2018 [Find out more](#)

### 2018 FBT and Salary Packaging Webinars

Below are the links to the live and recorded 2018 FBT webinars. Receive a 15% Discount when you purchase 3 or more Live or Recorded FBT Webinars in a single transaction. Use Promo Code **FBT15** at the checkout.

1. 2018 New Zealand FBT Update [Find out more](#)
2. 2018 FBT Relocations & Mobility [Find out more](#)
3. 2018 Not for Profits & FBT [Find out more](#)
4. 2018 FBT Motor Vehicles & Car Parking [Find out more](#)
5. 2018 FBT & Entertainment Expenses [Find out more](#)
6. 2018 Australian FBT Update [Find out more](#)
7. 2018 Salary Packaging Essentials – Wednesday 11 April [Find out more](#)

If you wish to discuss anything further in relation to FBT, please reach out to our office on

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