

*July 2018*

## **ATO releases PCG addressing FBT & Exempt Car Benefits**

The much anticipated PCG on exempt vehicles and determining private use has been released as final by the ATO. Without doubt, the PCG shines a strong spotlight on the FBT risks and obligations when providing work related tool of trade vehicles including vans, panel vans, utilities, single cabs and dual cabs.

***Practical Compliance Guideline PCG 2018/3 Exempt car benefits and exempt residual benefits: compliance approach to determining private use of vehicles*** was released by the ATO on Wednesday 11 July 2018.

### **What does PCG 2018/3 address?**

PCG 2018/3 provides a new approach for employers to determine if the private use of an exempt vehicle qualifies for an FBT exemption. Whilst the PCG was originally thought to be a safe harbour concession to ease the compliance burden, the final release seems to show the opposite in that employers and employees may experience difficulties in keeping records and substantiating trip classifications.

The PCG can be relied on if:

- (a) the employer provides an *eligible vehicle* to a current employee
- (b) the vehicle is provided to the employee for business use to perform their work duties
- (c) the vehicle had a GST-inclusive value less than the luxury car tax threshold at the time the vehicle was acquired
- (d) the vehicle is not provided as part of a salary packaging arrangement and the employee cannot elect to receive additional remuneration in lieu of the use of the vehicle
- (e) you have a policy in place that limits private use of the vehicle and obtain assurance from your employee that their use is limited to use as outlined in subparagraphs (f) and (g) of this paragraph
- (f) your employee uses the vehicle to travel between their home and their place of work and any diversion adds no more than two kilometres to the ordinary length of that trip
- (g) for journeys undertaken for a wholly private purpose (other than travel between home and place of work), the employee does not use the vehicle to travel
  - i. more than 1,000 kilometres in total, and
  - ii. a return journey that exceeds 200 kilometres.

It is worth noting that the following criteria included in the Draft PCG 2017/D14 released in December 2017 were omitted or updated from the final release of PCG 2018/3:

- (a) the vehicle has no non-business accessories (***This has been removed from the final PCG released***)
- (b) your employee uses the vehicle to travel
  - i. no more than 750 kilometres in total for each FBT year for multiple journeys taken for a wholly private purpose. (***This has been updated to 1,000 kilometres as per above***)

### Examples provided in PCG 2018/3:

PCG 2018/3 provides examples to guide employers and employees to distinguish between trips that are business or private in nature:

#### Example 1 - Diversion and wholly private travel:

An employer provides an employee with a new panel van designed to carry a load of less than one tonne. The van is provided to the employee to enable the employee to carry bulky equipment to and from their work sites. The van is not provided as part of a salary packaging arrangement, and was acquired for a value below the applicable luxury car tax threshold.

The van is an eligible vehicle. The van is garaged at the employee's home and the employee uses the van to travel between their home and their place of employment. The employer has a strict policy in place about limiting the private use of the vehicle.

The employee usually stops at the newsagent to pick up a newspaper on their way to work. The diversion adds no more than two kilometres to the total trip from home to work.

On 10 occasions during the FBT year, the employee also transported their niece to school in the van during the employee's journey from home to work. The journeys from home to work generally do not exceed 20 kilometres.

At the end of the 2019 FBT year, the employer receives an email from the employee. The email outlines that multiple journeys were undertaken in the FBT year for a wholly private purpose and these journeys did not exceed 1,000 kilometres in total. The employee also outlines in the email that in driving to and from work, no diversions were undertaken that exceeded two kilometres. The employer is satisfied that the employee has adhered to their policy about limited private use.

The employee's private use of the van during the year was limited to moving residences and travel from home to the new residence (300 kilometres within a single return trip).

### **Example 2 – Not a diversion:**

Assume the same facts as in Example 1. However, during the football season the employee attends weekly football training after work. The diversion adds more than two kilometres to the total journey from work to home.

The employee's travel from work to football training is not considered to be a diversion, as the primary purpose of the journey was for the employee to travel to football training, not from work to home. Additionally, the travel to attend this weekly football training and the travel to transport their niece exceeds 1,000 kilometres. Therefore, the employee cannot provide assurance that the requirements in paragraph 6 of this Guideline are met and the employer will not be able to rely on this Guideline.

The employer will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.

### **Example 3 – Limited wholly private travel:**

An employer provides a car benefit to an employee. The vehicle is a panel van designed to carry a load of less than one tonne and is fitted with a navigation device. The employee uses the van to transport goods in their role as a courier driver. The van was acquired for a value below the applicable luxury car tax threshold and is not provided under a salary packaging arrangement.

The employee provides confirmation to the employer that their private use of the van during the year was limited to:

- taking domestic rubbish to the tip (100 kilometres return journey), and
- moving residences and travel from home to the new residence three times (200 kilometres travelled in total).

The journeys undertaken for a wholly private purpose by the employee in the 2019 FBT year amounted to 300 kilometres in total and no more than 200 kilometres was travelled in a return journey. The employer is satisfied that the employee has adhered to their policy about limited private use and is able to rely on this Guideline.

### **Example 4 – Not limited private use:**

Assume that the employer is aware that the van provided to the employee in Example 3 of this Guideline was also used by the employee to travel to the beach on a public holiday and is not satisfied with the assurance provided. The employee acknowledges they used the vehicle to travel to the beach and that the return journey exceeded 200 kilometres. As each return journey must not exceed 200 kilometres, the return journey to the beach would not fall within this Guideline.

Accordingly, even though the journeys undertaken wholly for a private purpose do not exceed 1,000 kilometres, the employer will need to rely on the relevant provisions of the FBT law to determine if they can access the car-related exemptions.

## How will PCG 2018/3 affect your FBT obligations?

PCG 2018/3 will apply to car and residual benefits provided in the 2019 and later FBT years. In its current form, the PCG will require detailed travel records to be maintained to prove exemption. In addition, all the qualitative measures will need to be met.

The PCG shows a shift towards more thorough record-keeping requirements for motor vehicles and potentially the need for logbooks to substantiate the individual and cumulative distance of any private use by employees.

The release of PCG 2018/3 is a strong indication that the ATO are broadening the FBT base and making the FBT exemption requirements more transparent, while reducing the window of opportunity to claim FBT exemptions.

We would be happy to assist you should you have any queries about implementing a solution across your fleet, including electronic logbook, to improve your record-keeping and compliance matters.

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## Next on FBT Talk:

In our next FBT Talk issue, we will be covering **Salary Packaging, the advantages for employees and employers, how employees can be paid more at no extra cost to the employer, the importance of policies and implementing an effective solution.**

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 Outsource and Lodgement
- FBT Return Review and Lodgement
- FBT and Salary Packaging Advisory and Consulting
- Managing FBT Audits
- Salary Packaging Outsource
- Automated Logbook and Car Parking Register
- Training on FBT and Salary Packaging
- Car Parking Valuation

## FBT and Salary Packaging Webinars

Below are the links to our upcoming 2018 FBT webinars.

1. **Key FBT Learnings for 2019 and Beyond:** Thursday 26 July, 10:30am to 12noon (AEST) – [Find Out More](#)
2. **Motor Vehicles, FBT and Exemptions:** Thursday 16 August, 1pm to 2:30pm (AEST) – [Find Out More](#)
3. **Car Parking, FBT and Exemptions:** Tuesday 28 August, 10:30am to 12noon (AEST) – [Find Out More](#)
4. **Managing Employee Expenses and Entertainment:** Wednesday 12 September, 1pm to 2:30pm (AEST) – [Find Out More](#)
5. **Key FBT Exemptions Including Minor Benefits:** Tuesday 18 September, 1pm to 2:30pm (AEST) – [Find Out More](#)
6. **Salary Packaging Essentials:** Tuesday 23 October, 1pm to 2:30pm (AEST) – [Find Out More](#)

If you wish to discuss anything further in relation to FBT, please reach out to our office on 02 8079 2924 or contact our team directly at [info@fbtsolutions.com.au](mailto:info@fbtsolutions.com.au).