

COVID-19 Tax Issues

FBT treatment of car benefits during COVID-19

The ATO has issued a fact sheet that provides guidance to employers for determining the fringe benefits tax (FBT) implications of cars garaged at the homes of employees during COVID-19.

Where an employer is using the operating cost (or log book) method to calculate the taxable value of car benefits, the ATO will accept that the employer isn't holding a car for fringe benefits tax purposes where the car isn't being driven at all, or is only being driven to keep the car in working order.

Accordingly, there will not be an FBT liability on the car during this time - However the employee would need to obtain odometer records in order to evidence this.

If the employer is using the statutory method to calculate the taxable value of car benefits, then a taxable benefit will generally arise on each day when the car is garaged at the employees home even if the employee does not use the car on that day. In other words, if employees are not using a car in the way that they usually would because of COVID-19 restrictions, there will still be an FBT liability on the car.

The fact sheet also states that a new log book could be completed for the FBT year ending 31 March 2021, even if the employer already has a valid log book for the car from an earlier FBT year. This could be beneficial when COVID-19 restrictions have caused a reduction in the private use of the car compared to the log book year.

However at the time the employer prepares the FBT return for the 2020-21 year, it will need to decide whether the information from the new 12-week log book is representative of the business use percentage for the full year, and if necessary adjust the percentage shown by the log book.

COVID-19 early release of super extended to 31 December 2020

Pursuant to recent legislative amendments, individuals now have until 31 December 2020 (extended from 24 September) to access up to \$10,000 of their superannuation under the compassionate ground of release that was introduced in response to the Coronavirus in April this year.

Individuals can only access this second amount where they meet the relevant requirements - Eligible individuals can apply directly to the ATO through the myGov website and certify that the eligibility criteria is satisfied.

JobKeeper 2.0 - changes to turnover tests

The extended JobKeeper scheme started on 28 September and is scheduled to end on 28 March 2021. Whilst the decline in turnover percentages have not changed, there has been a change in the way that turnover is measured - Businesses now have to apply the turnover tests in 2 phases.

For the first extension period from 28 September 2020 to 3 January 2021 (phase 1), businesses and not-for-profits will be required to demonstrate that their "actual" GST turnover has significantly fallen (using the relevant existing decline in turnover tests) in the September 2020 quarter relative to the corresponding quarter in 2019.

For the second extension period from 4 January 2021 to 28 March 2021 (phase 2), businesses and not-for-profits will be required to demonstrate that their "actual" GST turnover has significantly fallen (using the relevant existing decline in turnover tests) in the December 2020 quarter relative to the corresponding quarter in 2019.

This means that businesses must under JobKeeper 2.0 measure the decline in turnover solely on the BAS's lodged for the September and December quarters (i.e. actual turnover). Businesses can no longer use a monthly or quarterly comparison of their choosing and also they can't use projected turnover.

Note that businesses are not permitted to artificially defer turnover in order to receive JobKeeper 2.0 payments.

If there are events or circumstances outside the usual business setting that results in the relevant comparison period in 2019 (September or December 2019 quarter) not being appropriate, then the business need only satisfy one of the existing alternative tests to receive JobKeeper 2.0 payments.

GST treatment of small business grants

The GST treatment of grants depends primarily on whether the grant represents consideration that has the relevant connection with a taxable sale. This will depend on the particular facts and circumstances of each grant program.

Generally a grant is not consideration that has a relevant connection with a taxable sale unless something of value is provided by the grantee in return for the payment. Providing something of value for the payment includes entering into a legally binding obligation to do something or refrain from doing something in order to receive the payment.

Example: Payment to support COVID-19 impacted business

ABC Pty Ltd operates a café which employs six full time and three casual workers. As a result of COVID-19 the café is closed for three months and operates at reduced capacity after re-opening.

The state government provides a \$10,000 cash payment to businesses that meet eligibility criteria showing they have been impacted by COVID-19. The funds may only be used for unavoidable business expenses and any monies not spent will need to be repaid.

ABC Pty Ltd provides a declaration that it meets the eligibility criteria, applies for and receives the \$10,000 payment. The company spends the funds on paying outstanding business utility bills, purchasing replacement stock and deep cleaning the premises so it can reopen. The company is required to keep records of the expenses for five years.

The payment is made to provide financial support to ease the pressures faced by small business impacted by COVID-19. ABC Pty Ltd does not enter into any legally binding obligations in return for the provision of the payment. The café only needs to meet eligibility requirements as stipulated in the funding application.

As the payment is not for any supply provided by the company to the state government, ABC Pty Ltd does not have to pay GST on the cash payment received.

Deductibility of interest on rental property loans

The ATO has reminded taxpayers that interest on a rental property loan is tax deductible in the year it is incurred.

Many lenders have introduced arrangements where customers impacted by COVID-19 can elect not to make mortgage payments over a period of time (e.g. 6 months) and have the interest added to the loan.

A taxpayer who enters into this type of arrangement can still claim the accrued interest as a tax deduction in the year incurred on the basis that the property owner is receiving a commercial rent (including a rent reduction as a result of COVID-19).

Also where the property has been vacant for a period of time as a result of COVID-19, the interest will continue to be deductible where the property owner is actively searching for a new tenant.

Varying pay as you go (PAYG) instalments

The ATO is reminding taxpayers that they can vary their PAYG instalments throughout the year if they think they will pay too much compared with their estimated tax for the year.

Due to COVID-19, the ATO will not apply penalties or interest for the 2020–21 income year for excessive variations where a best attempt to estimate end of year tax is made. However, general interest charges may apply to outstanding PAYG instalment balances.

Variations don't carry over into the new income year, so if taxpayers have made variations in the 2019–20 income year, they may need to vary again in 2020–21. The varied amount or rate will apply for all remaining instalments for the income year until another variation is made.