

# Tips in Preparing the 2022 FBT Return

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31 March 2022 is an important date in the Tax calendar as it marks the end of the 2022 FBT year. Businesses should now be planning to ensure their documentation is in place to accurately prepare and lodge their FBT returns on time. With COVID-19 having a major impact in the 2022 FBT year, this year more than any may require additional focus to ensure the correct exemptions are being applied and FBT is calculated correctly.

## FBT registration

The first thing businesses should check is whether they are registered for FBT. Many business owners, particularly those who have recently set up a business, don't think that they will provide their employees with fringe benefits, and therefore don't register. But as the year progresses, they may realise that an FBT return is necessary.

If the business isn't registered, registration forms can be accessed on the Australian Taxation Office (ATO) website – go to <https://www.ato.gov.au/Forms/Application-to-register-for-fringe-benefits-tax/>. Alternatively contact your tax agent who can process this registration for you.

## Lodgement and payment dates

Where businesses lodge their own FBT returns, the final date for lodgement of their 2022 FBT return and payment of any outstanding FBT is 23 May 2022.

If the 2022 FBT return is lodged by a tax agent, the lodgement due dates are:

- 27 June 2022 for electronic lodgement
- 23 May 2022 for paper lodgement

The due date for payment under the tax agent lodgement program has now been extended to 25 June for FBT returns lodged electronically, noting that a few additional days are provided if the due date falls on a weekend.. However, for FBT returns that are lodged by paper, the payment due date will remain as 21 May.

Businesses who are registered and do not provide any fringe benefits during the year must still fulfil their lodgement obligations by submitting a 'notice of non-lodgement' with the ATO to avoid follow up action.

If businesses are liable to pay FBT for the FBT year or have paid FBT instalments for the year, a Fringe Benefits Tax (FBT) return must be lodged.

## MAJOR CHANGES - 2021 AND 2022 YEARS

### Windfall for cars stored at an employee's home during COVID-19

The ATO released the factsheet: '*COVID-19 and car fringe benefits*' in which a concession was outlined that will allow employers to reduce their FBT exposure for cars garaged at an employee's home as a result of the COVID-19 pandemic.

Generally, a car is deemed to be available for private use of an employee if the car is garaged or kept at or near a place of residence of an employee or associate. However due to COVID-19, if the operating cost method is used to calculate the car fringe benefits, and the employer's car was garaged at the home of the employee and *not* driven, or only driven briefly for the purpose of maintaining the car, during the COVID-19 lockdown periods, then there will not be any deemed private use of the car for this period. This means that no FBT will apply for this period and the vehicle is not being driven during the COVID-19 lockdowns. Businesses will need to maintain odometer records to show that, during the period, the car was in fact garaged and had not been driven.

### Parking benefit changes for 2022 FBT Year (TR 2021/2)

In June 2021 the ATO finalised their tax ruling to replace their longstanding view concerning Car Parking benefits. The update applies from 1 April 2022, for the FBT year ending 31 March 2023. The update now includes many parking stations that were previously considered non-commercial, and therefore no FBT, under the old TR 96/26.

Businesses that provide parking to their employees, and within 1km from where the employee's car is parked, a commercial parking station (***now specifically including shopping centres, hotels, hospitals, universities and airports***) charges more than ~ \$9.25\* (the car parking threshold) on 1 April 2022 could now be subject to FBT.

Please note that for most businesses with an aggregated turnover of less than \$50 million, where the parking provided to the employee is not provided at a commercial parking station, the car parking exemption could apply in most circumstances.

\*At time of writing the Parking Threshold applying from 1 April 2022 (for the FBT year ending 31 March 2023) had not been provided. However, the parking threshold for the 2022 FBT year beginning 1 April 2021 was \$9.25.

### Parking exemption thresholds extending to businesses with turnover below \$50mil

For most businesses from 1 April 2021, (the 2022 FBT year), the car parking FBT exemption has been extended to those with turnover below \$50 million, up from \$10 million. This means that more businesses will be exempt from being taxed on car parking fringe benefits going forward.

As long as the parking provided to employees is not provided at a commercial parking, and the business' aggregated turnover is less than \$50 million, the parking FBT exemption could apply in most circumstances.

### ATO updated guidance regarding deductibility of transport and other travel costs

The ATO have finalised their tax rulings dealing with transport costs, TR 2021/1, and employee accommodation and tax treatment of Living Away From Home Allowances (LAFHA), TR 2021/4, help in determining if relevant costs paid by an employer would be deductible or would be subject to FBT.

One of the key differences between the finalised rulings and the drafts previously issued relating to accommodation expenses, is that an employee would not be considered as 'travelling' for work purposes when they do not stay overnight. This means when an employee completes a day trip between capital cities, any meals provided would not be considered travel expenses, and the employer would need to consider FBT impacts, or even the 'minor benefit exemption'.

### **FBT treatment of expenditure incurred by an employer in relation to a cancelled staff event**

The ATO has release a '*COVID-19 and fringe benefits tax*' factsheet that states that an employer will generally not have an FBT exposure when a non-refundable expenditure has been incurred for a cancelled staff event. In this case the employer has not provided any fringe benefits to its employees.

However, where an employer reimburses an employee for attendance fee or ticket that was previously paid by the employee for an event that has been cancelled, FBT may still apply where the employer reimburses the employee for their loss as the reimbursement is categorised as an expense payment benefit.

Where a hamper is provided in lieu of a staff event, the minor benefit exemption may apply if the notional value of the benefit is less than \$300 (inclusive of GST).

### **COVID-19 testing expenses**

The government announced in February 2022, that it will ensure that COVID-19 expenses are tax deductible for testing taken to attend a place of work. This translates to no FBT applying for employers providing COVID-19 tests to employees for the purpose of testing to attend a place of work. As this is not legislated at time of writing, it is suggested that a record should be kept for COVID-19 testing expenses incurred for this purpose. The government announcement suggests that this will be applicable from 1 July 2021.

### **CHECKLIST OF COMMON BENEFITS PROVIDED**

Following is a checklist of the more common benefits provided together with some useful tips:

#### **(i) Motor vehicles**

Cars are the most common type of fringe benefit provided to employees and therefore planning for FBT can save money. This includes:

- For each motor vehicle acquired before 10 May 2011, obtain the odometer reading as at 31 March 2022.
- For new motor vehicles, retain the purchase invoice of the car including a breakdown of all non-business accessories (e.g. window tinting or a CD player).
- The cost of the car for FBT purposes includes:

GST

Non-business accessories

Dealer & delivery charges

Luxury car tax

- The cost of the car for FBT purposes excludes:

Stamp duty on transfer

Registration or insurance

- Review entitlements to any FBT reductions. For example, if the car has been owned for more than four full 'FBT years', the cost or 'base value' is reduced by one-third under the statutory formula method.

Choose whether to use the 'statutory formula' or the 'operating cost' method to calculate the FBT payable. Generally speaking, the statutory formula method is more advantageous when the car is used primarily for personal use while the operating cost method is usually best when the car is used mainly for business purposes. Note that the statutory rates changed for cars purchased from 10 May 2011, moving to a single statutory rate of 20% regardless of the distance travelled.

### ***Statutory formula method***

- If using the statutory formula method and the car was acquired before 11 May 2011 and was sold during the year ending 31 March 2022, the kilometres travelled will need to be annualised.
- The Old Statutory % rates only apply to vehicles with a pre-existing commitment before budget night of 11 May 2011.
- Where there is a change to a pre-existing commitment (e.g. car refinanced) for a motor vehicle acquired before 11 May 2011, the 20% statutory rate will apply.

The following statutory rates apply for cars acquired from 7.30pm on 10 May 2011 under the transitional provisions and also for cars that continue to apply the old rules:

<b>Total km's travelled in FBT year</b>	<b>Old Statutory % (for pre 11 May 2011 cars)</b>	<b>New Statutory % (for post 10 May 2011 cars)</b>
0 - 14,999	26	20
15,000 - 25,000	20	
25,000 - 40,000	11	
Over 40,000	7	

Note that cars provided under pre-existing commitments (i.e. owned prior to 11 May 2011) will continue to use the old statutory fractions, unless there is a change to that pre-existing commitment. A change in pre-existing commitment could extend to having the vehicle re-financed after 10 May 2011.

### ***Operating cost method***

If using the operating cost method, ensure that the employee has maintained a log book for a 12 consecutive week period within the FBT year or a previous FBT year. A log book is valid for a period up to 5 years. Make sure to maintain adequate records of:

- Repairs
- Maintenance
- Fuel
- Registration and insurance
- Lease payments or deemed interest/depreciation
- Other vehicle expenses

It is important to check whether the employee has made any contributions to the business for the provision of the car as this can significantly reduce the FBT liability. These contributions can even take the form of any non-reimbursed expenses the employee has paid for such as fuel or repairs. It's important to account for the contributions as income in the profit and loss and disclose the GST on your next BAS.

At this stage there are no special FBT rules covering electric or hybrid vehicles, all of the same tests apply.

### **(ii) Meal entertainment**

Most businesses provide Meal Entertainment to staff and clients during the course of the year. Unlike many other business expenses, meal entertainment is not tax deductible. Generally, you are only allowed a tax deduction when FBT has been paid on the particular expense.

Again, a bit of planning and good record keeping can assist in limiting unnecessary tax when it comes to meal entertainment. There are three methods which can be used to calculate FBT for meal entertainment and businesses should choose the one which is most beneficial in their particular circumstances. It is best practice to calculate meal entertainment using all the methods available, and simply applying the most tax effective method in your FBT return. You can speak to your tax advisor for further guidance on the following methods:

#### ***50/50 method***

The total meal entertainment benefits inclusive of GST amount provided is divided by 2, and FBT is paid on 50% of the total meal entertainment. This method is most beneficial when meal entertainment is provided mainly to employees. The use of this method however will deny the employer the ability to apply the \$300 'minor and infrequent' and in-house property benefit exemptions that may otherwise have been available.

#### ***Actual method***

FBT is calculated only on meal entertainment benefits (inclusive of GST amount) provided to employees. This method is most beneficial when providing meal entertainment mainly to non-employees or when most meal entertainment provided is provided infrequently and costs less than \$300 (inclusive of GST) per person. When using this method the \$300 'minor and infrequent' and in-house property benefit exemptions can be used to reduce each fringe benefit provided.

### **12 week register**

This method is not commonly used but works by keeping a logbook of meal entertainment for 12 consecutive weeks and determining what percentage of meal entertainment relates to employees. That percentage is then applied to the total meal entertainment (inclusive of GST amount) at the end of the FBT year. This is the least popular method due to the records that need to be maintained.

### **Issues to consider**

It is useful to note the following considerations when calculating any meal entertainment FBT:

- Was meal entertainment (by way of food or drink) provided to employees on or off the business premises? This can include Christmas parties, Friday night drinks, etc.
- Did the business reimburse an employee's restaurant bill, for instance when entertaining clients?
- Was a "recreation" benefit provided to an employee? This could include a ticket to watch the football or a concert. If so, ensure that this type of entertainment is recorded separately to meal entertainment.
- You should maintain a register of employees, associates and non-employees who attended functions where meal entertainment and non-meal entertainment was provided.
- Have you considered the GST implications? The GST treatment of meal entertainment related expenditure will depend on the meal entertainment method used:

If using the 50/50 method, only 50 percent of the GST can be claimed. The other half is added back to the profit and loss account and is not available as a tax deduction

If using the actual method, only claim the GST on that portion of entertainment that is subject to FBT. Otherwise, GST is treated as a profit and loss expense and is not available as a tax deduction

### **(iii) FBT exemptions**

There are some employee benefits which are exempt from FBT and could be considered as part of a salary package arrangement for employees. Generally speaking, these benefits must be primarily used for work purposes, or to enable staff to do their job more efficiently. These exempt benefits include:

- Mobile phones
- iPads
- Laptop computers
- Briefcases
- Membership expenses, items such as a subscription to a trade, professional body or even an airport lounge membership
- Other work related items or tools of trade (e.g. power drill)

The employer can generally only provide each item 'once' to an employee per FBT year to take advantage of the FBT exemption. For example, the employee can receive both a laptop computer and mobile phone in the one FBT year.

These benefits do not need to be recorded on the FBT return as they are 'exempt' benefits and are also not reported fringe benefits included on the employee's PAYG Payment Summary. They are also not counted as wages for payroll tax and work cover purposes.

Further, the ATO also provided additional guidance relating to employers providing employees with equipment to allow them to work from home due to COVID-19. The ATO has stated that some items would usually be exempt from FBT if the equipment's use is primarily for your employee's work. This could include items such as:

- Laptops
- Portable Printers
- Other Electronic Devices

The ATO also advises that the Minor Benefits Exemption or otherwise deductible rule may apply for other items that may be provided to employees to work from home, such as:

- Monitor, mouse, keyboard or other equipment they otherwise use in the workplace
- Stationary, computer consumables and potentially a portion of the telephone and internet costs where a logbook of usage can be supplied by the employee.

#### **Otherwise deductible rule**

The Otherwise Deductible Rule applies to reduce the amount of FBT payable by an employer where a benefit provided to an employee would ordinarily be deductible in their name.

That is where an employee is provided with a fringe benefit (such as paying their professional membership fees), and the benefit provided to the employee would be an item or expense that would be tax deductible by the employee if they were to claim a deduction in their personal tax return (such as membership fees required for their employment), the otherwise deductible rule would apply. For an employer, this means that the FBT taxable value would be reduced by the portion of the expense that is otherwise deductible by the employee.

As an employer you would want to seek a signed employee declaration to confirm that your treatment is correct before lodgement or the due date of your FBT return. The Fringe Benefit would still need to be reported in the company's FBT return, however the deductible portion would be used to reduce the FBT taxable value in the FBT return.

*This article is tailored to FBT taxable employers and does not provide guidance for employers who are wholly or partially exempt from income tax. Your specific circumstances should be reviewed by a fringe benefit tax specialist.*