



# *FBT update*

Presented by Ali Suleyman , Elena Bogomolova and Gary Matthews

17 March 2022

Pitcher Partners Advisors Proprietary Limited

ABN 80 052 920 206



# *Important information*

## ***Pitcher Partners***

This presentation ('Presentation') has been produced by Pitcher Partners and has been prepared for informational and discussion purposes only. The information provided in this document is of a general nature and has been prepared without taking into account your objectives, circumstances, financial situation or particular needs. This Presentation does not constitute personal advice.

This Presentation has been prepared by us in the ordinary course of our profession. In providing this Presentation, we are not purporting to act as solicitors or provide legal advice. Appropriate advice should be sought prior to acting on anything contained in this Presentation or implementing any transaction or arrangement that may be referred to in this Presentation.

Information contained within this Presentation is based on the relevant law and its interpretations by relevant authorities as it stands at the time the information is provided. Any changes or modifications to the law and/or its interpretation after this time could affect the information we have provided.

This Presentation, or any part thereof, must not be distributed, copied, used, or relied on by any person, without our prior written consent.

To the maximum extent permitted by law, Pitcher Partners will not be liable for any loss, damage, liability or claim whatsoever suffered or incurred by any person arising directly or indirectly out of the use or reliance on the information contained within this Presentation.

Pitcher Partners is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity, and each describes itself as such. Pitcher Partners is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly's behalf. None of Baker Tilly International, Pitcher Partners, not any of the other member firms of Baker Tilly International have any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

Pitcher Partners is an association of independent firms.

Any trademarks, logos, and service marks contained herein may be the registered and unregistered trademarks of their respective owners. Nothing contained herein should be construed as granting by implication, or otherwise, any license or right to use any trademark displayed without the written permission of the owner.

Liability limited by a scheme approved under Professional Standards Legislation.

*What we are covering today*



**Ali  
Suleyman**

Introduction

FBT Basic concepts

FBT Key dates, rates  
and thresholds



**Elena  
Bogomolova**

FBT Recent  
developments



**Gary  
Matthews**

FBT Common  
issues



# ***FBT***

## ***Basic concepts***

# ***FBT basic concepts***

## ***What is a 'fringe benefit'?***

### **Benefit**

“includes any right, privilege, service or facility . . .”

### **Fringe benefit**

Benefit

Provided by employer, associate or third party under an arrangement

Provided to an employee or associate of an employee

In respect of the employee's employment



## ***FBT basic concepts In respect of employment***

**Employee** is a person in receipt of certain payments subject to PAYG withholding

**FBT extended definition**  
where only non-cash items received

**‘Sufficient or material connection’** between employment and benefit



# ***FBT basic concepts***

## ***Benefit categories***



Cars



Expense payments



Property



Car parking



Board



Housing



Debt waiver



Meal  
entertainment



Living Away From  
Home Allowances



Loans



Tax-exempt body  
entertainment



Residual



# ***FBT basic concepts***

## ***What is the taxable value?***



### **Valuation methodology**

Depends on category  
e.g.

- GST incl cost
- 'Notional' value
- Formula



### **Exemption availability**

General  
e.g. minor benefits, work  
related items

Specific  
e.g. in-house child  
care facilities



### **Reductions**

Otherwise deductible rule  
Employee contributions





# ***FBT***

## ***Key dates, rates and thresholds***

## ***FBT – key dates***

MARCH



**FBT year end**

APRIL

**Preparation  
and review**

MAY



**Lodgement date  
if not lodged via  
tax agent**

JUNE



**Tax agent  
lodgement and  
payment date**

The **requirement** to make an estimated payment  
by 28 May **has been removed**

# FBT – rates and thresholds

<i><b>FBT rate</b></i>	<i><b>Gross up rates</b></i>	<i><b>Exempt / rebatable thresholds</b></i>
<b>47%</b> (Note: Generally = Top Marginal Rate)	<b>Type 1 Rate = 2.0802</b> <b>Type 2 Rate = 1.8868</b>  <b>Reportable Fringe Benefits Gross Up Rate = 1.8868</b>	<b>\$30,000 Grossed up</b> Most Exempt and Rebatable Employers  <b>\$17,000 Grossed up</b> Public + Non-Profit Hospitals and Public Ambulances Services  <b>\$5,000 Grossed up</b> Additional Cap for Salary Packaged Meal Entertainment and EFLEs

# ***FBT – rates and thresholds***

**4.52%**

**Benchmark interest rate**

Down from 4.80%

**\$9.25**

**Car parking threshold**

Up from \$9.15

Affects the following cents per km rates for residual motor vehicles



0-2500cc  
**56 cents/km**



Over 2500cc  
**67 cents/km**



Motorcycle  
**17 cents/km**



## *Recent developments*

# COVID-19 Vaccination incentives and rewards



## Cash incentives / Paid leave

Salary and wages

- Report via STP
- Withhold PAYG
- Superannuation



## Transport to and from vaccination

Exempt from FBT  
under work-related  
preventative health care



## Other non-cash benefits

Gift cards/vouchers

- Minor benefits exemption
- In-house reduction

# *Rapid Antigen Tests*



Federal Govt  
to make RATs  
and PCR tests  
**tax deductible**



Mitigate  
**transmission risk**  
in the workplace



**Otherwise  
deductible** for  
FBT purposes



**Minor benefits**  
can also apply

Will take effect on **1 July 2021**



# COVID-19 and FBT

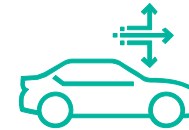


## Cars

Garaged at employer's premises  
vs employee's home

Consider logbook requirements

ATO data matching programs



## Car Parking

Benefits during lockdowns?

Statutory method vs actual method  
during lockdown

First day benefits were provided?

# COVID-19 and FBT



## **Working from home equipment**

Laptops, monitors, chairs, etc.

Minor benefits exemption and otherwise deductible rule

Depreciable assets?



## **Meal entertainment**

Likely experienced reduction in entertainment due to COVID restrictions and lockdowns in affected states

Consider 50/50 vs actual methods to provide better outcome



## **Emergency assistance**

Exemption available if benefit is emergency assistance to provide immediate relief; and employee is or at risk of being adversely affected by COVID

Must be temporary

# Car parking

## *Fringe Benefits Tax: car parking benefits*

**Definition of 'commercial car park' expanded** in response to Qantas Airways case

A car park that meets all of the following requirements for a particular day



Permanent



A commercial car parking facility



All-day parking available to the public on payment of a fee



Not on-street parking



Provided in the ordinary course of business



### Examples of 'commercial car park' within the expanded definition

Shopping centres

Airports

Hospitals

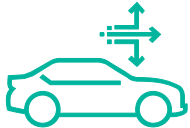
**To now apply from 1 April 2022**

# Car parking

## *Fringe Benefits Tax: car parking benefits*

With effect from 1 April 2021, the **small business turnover threshold** increased from less than \$10m to less than \$50m

### Be aware



**Car parking provided** must not be in a commercial car park



**Employer** can't be a

- government body
- listed public company
- subsidiary of a listed public company

# ***LAFH vs travelling for business***

***Are theses expenses deductible or not?***



# ***LAFH vs travelling for business***

## **PCG 2021/3**



### **Employee is traveling for business**

Short term travel less than 21 days at a time continuously and no more than 90 calendar days in total in an FBT year

Work duties require frequent overnight travel, no change in work location

Staying in hotel or other short-term accommodation

## **TR 2021/4**



### **Employee is LAFH**

There is a change in regular place of work

The length of overall period the employee is away

The nature of accommodation is such that it becomes usual place of residence

Employee is or can be accompanied by family

# ***LAFHA – Key points to note***



## **Who is LAFH?**

LAFH vs employee  
travelling for  
business



**Finite period**  
with intention to  
return home



**Employment  
contract /  
addendum**



**Allowances**  
paid for food and  
accommodation

## **Record keeping**

Signed declaration each FBT year on file



# LAFHA – Are there any exemptions?



Exemption  
criteria

**Employee must “maintain” a home in Australia and then live away from it**

- FBT concessions are not available if not met
- Declaration required

**If a home is maintained**, then concessions limited to maximum of 12 months at the same location

**LAFHA criteria does not apply**  
when employee works on a fly-in fly-out (**FIFO**)  
or drive-in drive-out (**DIDO**) basis



## *Common issues*

# ***Areas of non-compliance / focus***

## ***Common issues in these areas***



Motor vehicles



Entertainment



Exempt benefits



Classification of  
benefit



Living away from  
home allowances

## ***Exempt car benefits and residual benefits***

### **Relates to vehicles eligible for Workhorse exemption**

e.g. utes, panel vans, dual cabs and vehicles  
“with carrying capacity > 1 tonne”

### **Records to demonstrate private use**

is ‘minor, infrequent and irregular’ not required

Commissioner will not devote  
compliance resources

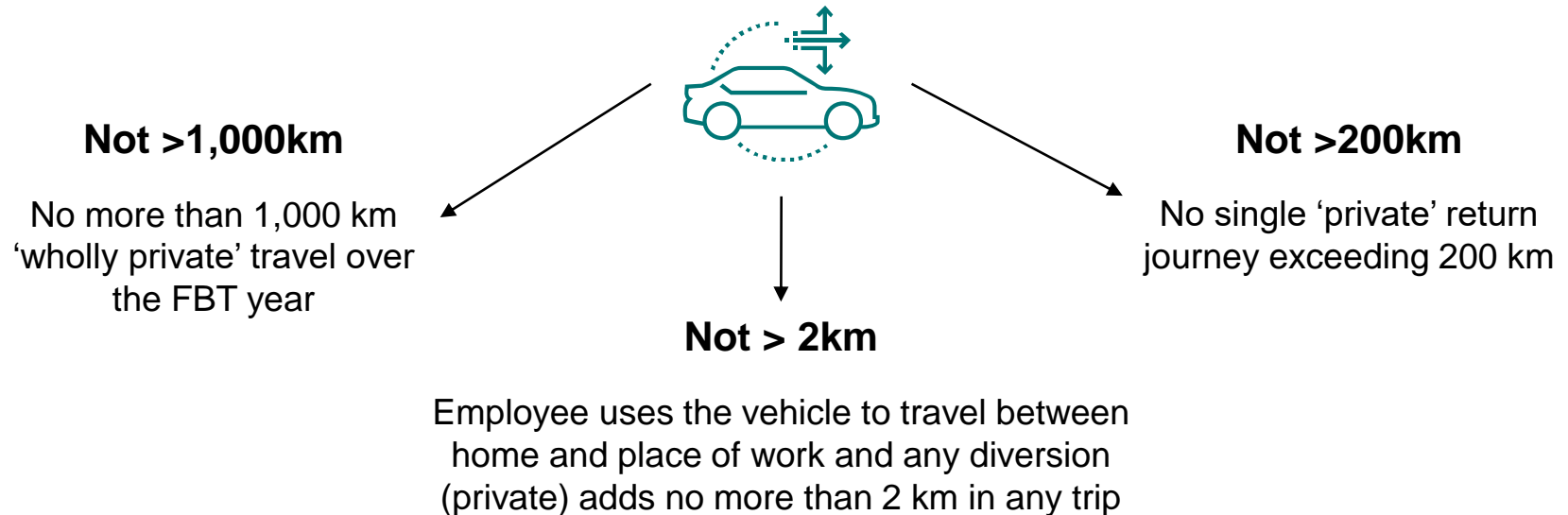
Must meet certain requirements and  
continue to meet them in each FBT year



# *Exempt car benefits and residual benefits*

## *Compliance approach to determining private use of vehicles*

'Requirements' include



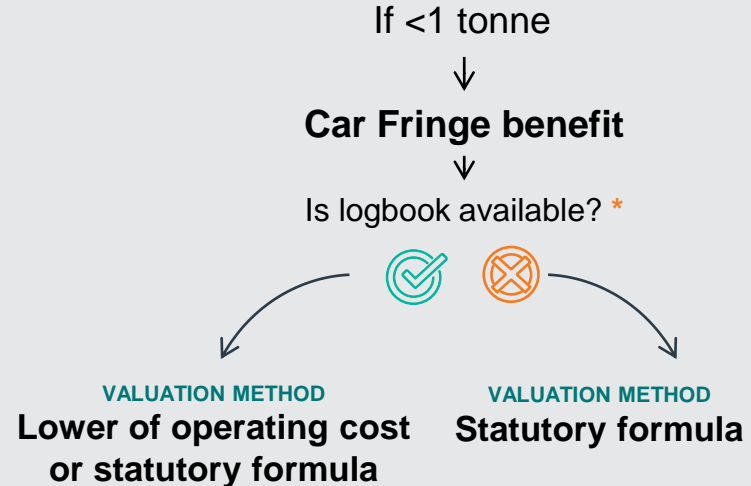
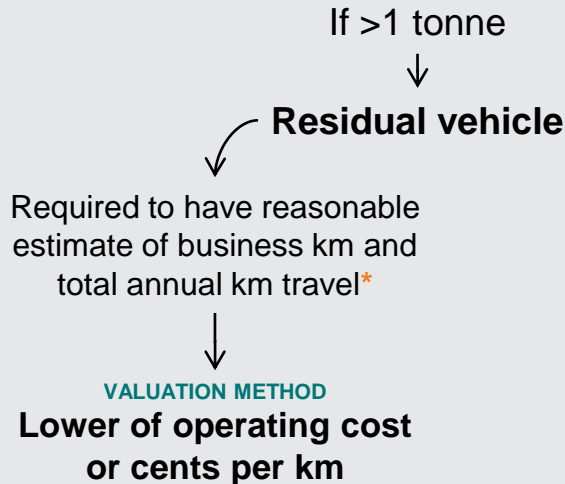
**When determining private travel** – Home to work travel is disregarded. It is not considered to be private use

# Taxable car benefits and residual benefits

## If Workhorse exemption does not apply



**Not exempt from FBT**



\* **When determining taxable value** – Home to work travel is considered to be private use

# Common issues

## *Car fringe benefits*

### **Base value**

Stamp duty and registration excluded

Trade-ins – employee vs employer

New employees

Business acquisitions

### **Operating cost method**

Valid logbook and election made?

### **Who ‘holds’ the car?**

Novated leases & hire purchases

### **Pooled or shared cars**

Subject to FBT but not reportable  
on Payment Summary



# Classification of benefit



**Employee**

Hire Purchases a \$40,000 car in their own name  
Minimal business use



**Employer**

Reimburses the HP payments and  
car running expenses

**Total paid**

**\$20,000 p.a.**

**This is an expense payment benefit**

**Taxable value = \$20,000**

If it were a car fringe benefit, the taxable value would be \$8,000

## ***Common issues***

Living Away  
From Home  
Allowance  
(LAFHA)

➞ **'Ownership' interest**  
in usual residence?

➞ **Usual place available**  
for private use and  
enjoyment

➞ **12-month rule**

➞ **Declarations**

➞ **FIFO/DIDO vs**  
**relocation**

➞ **Substantiation of**  
**accommodation**

➞ **Reasonable**  
**food costs**



## *Common issues*

### ***What is an 'entertainment benefit'?***

#### ***Entertainment***

- 1) Includes recreation and meal entertainment
- 2) Accommodation and travel to do with providing entertainment

#### ***Entertainment benefit?***

Ask what, when, where and why?



# Common issues

## Entertainment benefits – valuation methodologies

### *Actual cost*



Available for both meal and recreation

Property, expense or residual benefit

### **Consider exemptions**

- Client entertainment
- Minor benefits
- Property consumed on business premises

**Tax exempt bodies**  
(special category)

### *Meal entertainment election*



Available for meal only

50/50 split or 12 week register

**Based on total costs**

**No exemptions**

# Common issues

## *Exempt benefits*

### Minor benefits exemption

**<\$300 (GST inclusive), infrequent and irregular AND**

- Aggregate value of associated benefits
- Difficulty in valuing and circumstances of provision
- Use for staff gifts, ad hoc functions, etc.

### Eligible work-related items

**Exempt if provided primarily for use in employment**

- Portable electronic devices (e.g. laptop, mobile phone)
- Briefcases
- Protective clothing
- Tool of trade
- Exempt if for one item of each class per year (small business no limits)
- Beware of salary packaging!

## *Key takeaways*



GST inclusive  
values



***Classification  
of benefits***

Type 1 or Type 2  
classification



***Documentation /  
substantiation***

Invoices / receipts

Declarations

Elections

## Contact us



**Ali  
Suleyman**

**Partner**

+61 3 8610 5520

ali.suleyman@  
pitcher.com.au



**Elena  
Bogomolova**

**Client Director**

+61 3 8610 5635

elena.bogomolova@  
pitcher.com.au



**Gary  
Matthews**

**Senior Manager**

+61 3 8612 9361

gary.matthews@  
pitcher.com.au

# Making business *personal*

  [pitcher.com.au](https://pitcher.com.au)