



Fringe Benefits Tax Update

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Pitcher Partners Advisors Proprietary Limited

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What we are covering today



**Ali
Suleyman**

Introduction

Basic concepts

Key dates, rates
and thresholds



**Peejade
Cheng**

Recent developments

Record keeping
requirements

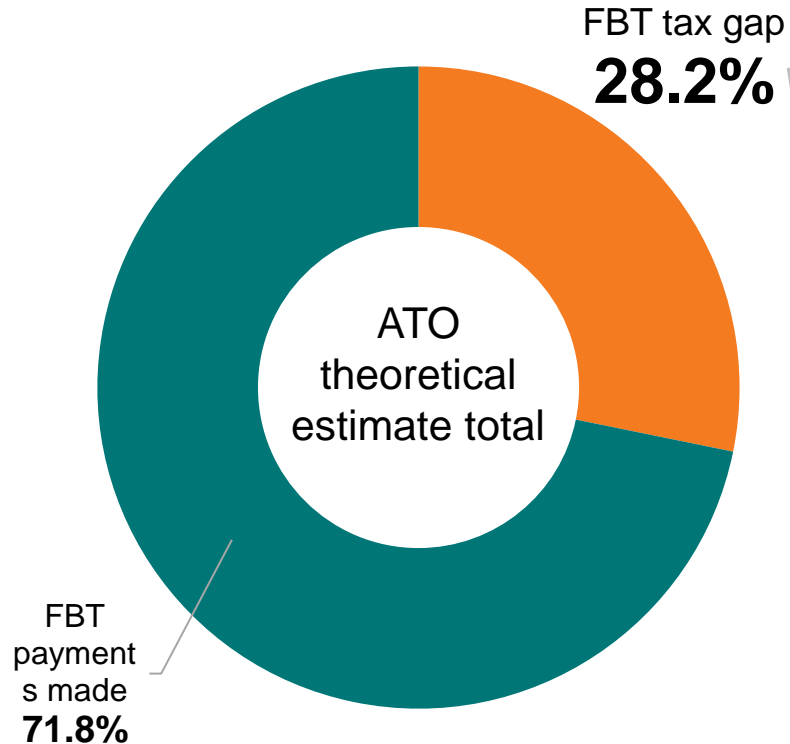


**Elena
Bogomolova**

Risk areas –
tips and traps

Compliance activities

Theme of ATO activities – Insufficient / incomplete documentation



What the ATO is doing to close the gap

- Random Enquiry Program
- Novated lease data matching program
- Private enterprise
- Employers with no history of filing of FBT
- Data-matching by ATO against
 - ITR disclosures
 - BAS disclosures
 - Insurance information
 - STP Reporting



Fringe Benefits Tax (FBT) Basic concepts

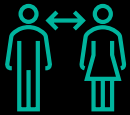
FBT basic concepts

What is a ‘fringe benefit’?



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

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

Fringe benefit

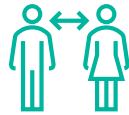
FBT basic concepts

In respect of employment



Employee

a person in receipt of certain payments subject to PAYG withholding



FBT extended definition

where only non-cash items received



'Sufficient or material connection'

This is between employment and benefit

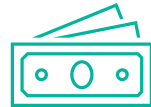
FBT basic concepts

Benefit categories



Cars

Car parking



Debt waiver

Loans

Expense
payments

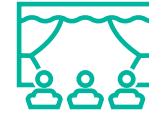


Board

Property

Housing

Living Away
From Home
Allowances



Meal
entertainment

Tax-exempt body
entertainment

Residual

FBT basic concepts

What is the taxable value?

Valuation methodology



Depends on category

- GST incl cost
- 'Notional' value
- Formula

Exemption availability



General
Specific

e.g. minor benefits, work related items
e.g. in-house child care facilities

Reductions

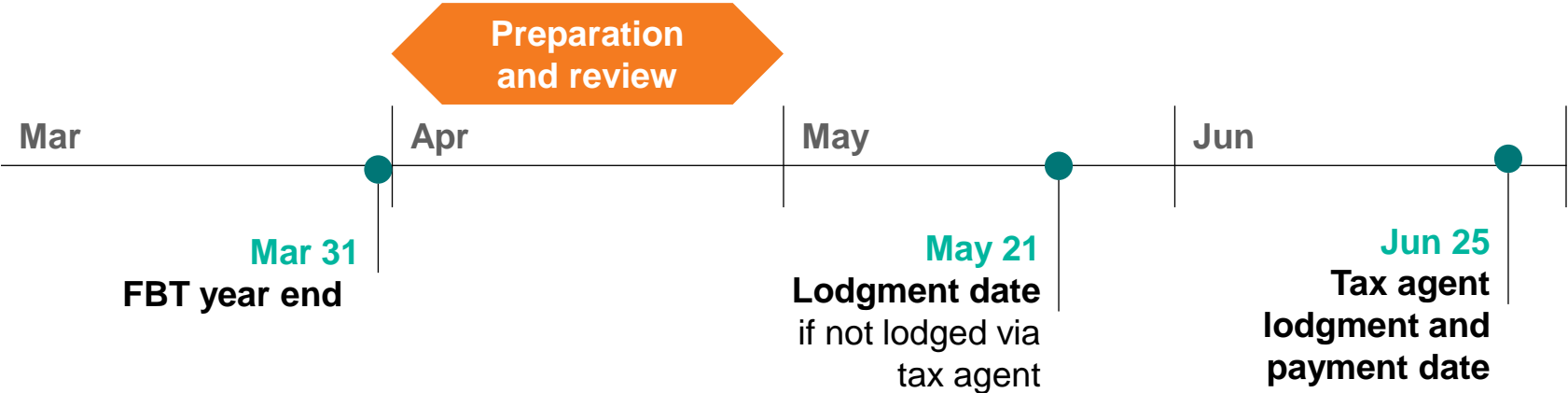


Otherwise deductible rule
Employee contributions



FBT
Key dates, rates and thresholds

Key dates for 2024



Significant Global Entity penalties

Reminder regarding FBT reviews

Failure to lodge penalties are calculated at the rate of one penalty unit for each period of 28 days (or part thereof) that the return is overdue

Base penalty amount X 500 = Penalty for a SGE

1 penalty unit after 1 January 2023 = \$275

EXAMPLE

Assume a FBT return for a SGE is **1 day late**

MAXIMUM PENALTY

\$275 X 500 = \$137,500

It is **critical that returns are lodged on time** or extensions are obtained for SGEs

FBT – key rates and thresholds

47%

FBT rate
No change

2.0802

Gross up
type 1 rate

1.8868

Gross up
type 2 rate
No change

Exempt / rebatable thresholds with no change for this year grossed up

\$30,000

Most exempt and
rebatable employers

\$17,000

Public + Non-Profit
Hospitals and Public
Ambulances Services

\$5,000

Additional cap for
Salary Packaged Meal
Entertainment and EFLEs

FBT – key rates and thresholds

7.77%

Benchmark interest rate

Up from 4.52%

\$10.40

Car parking threshold

Up from \$9.72

Affects the following cents per km rates for residual motor vehicles



0-2500cc

62 cents/km

Up from 58 cents/km



Over 2500cc

73 cents/km

Up from 69 cents/km



Motorcycle

18 cents/km

Up from 17 cents/km



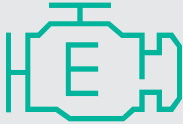
Recent developments

Electric vehicles exemption

Criteria

FBT year ended **31 March 2024** will be the second year
this exemption can be used

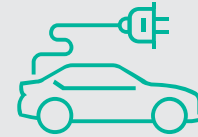
Exemption applies to cars that are



Battery
electric vehicles



Hydrogen fuel cell
electric vehicles



Plug-in hybrid
electric vehicles

From 1 April 2025, a plug-in hybrid electric vehicle should not be considered
an exempt electric vehicle, unless it is a pre-existing commitment

Electric vehicles exemption

Criteria



Car must be **first held and used** on or after 1 July 2022



Car value must be **below the luxury car tax threshold** for fuel-efficient vehicles \$89,332 in FY24



Must be a 'car' for FBT purposes

Designed to carry a load of less than 1 tonne and fewer than 9 passengers

Important watch-outs


The value of the benefit is included in the employee's RFBA

This may impact eligibility for certain government benefits e.g. entitlement to the Childcare subsidy

Depreciation deductions are limited to the luxury car cost depreciation threshold (\$68,108)

Electric vehicle expenses

Car operating expenses and separate benefits

 Considered
Car operating expenses

Road user charges imposed on electric vehicles as part of registration process

Repairs and maintenance expenses only to the extent they are not capital expenses

Electricity to charge and run electric vehicle including from employer premises or commercial charging stations

Insurance

Car wash

 Considered
Separate benefits

GPS subscriptions

Car parking expenses / toll expenses

Non business accessories added after purchase increase the base value if fitted to car. May include items such as charging cords.

Provision of home charging station

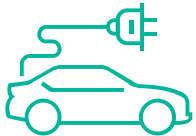
Enhancements (e.g. installation of new battery technology that substantially improves efficiency of vehicle), would be capital expenses and form part of the cost price

Safe Harbour electricity charging cost

PCG 2024/2

4.20 cents per km

Electricity charging cost



Used to calculate the cost of electricity when an EV is charged at an employee's home

Employer or employee choice can choose to use the methodology in the PCG, or determine the actual cost of the electricity used

Important watch-outs

Cannot be used for plug-in hybrid vehicles

Can only rely on this method if the actual electricity cost has been incurred, relevant records must be kept by the employer (employee declaration, odometer records, etc)

Employee travel



**Travelling for work vs
travelling on work**



**FIFO travel expenses
comparing Bechtel and
John Holland decisions**

TR 2021/1
PCG 2021/3 – 21 day and 90 day rule



Australian Government
Australian Taxation Office

Taxation Ruling

TR 2024/3

Status: **legally binding**

Taxation Ruling

Income tax: deductibility of self-education expenses incurred by an individual

To be deductible...

- ... the self-education enables the individual to **maintain or improve their skill or knowledge** used for income earning activities
- The self-education objectively leads to, or is likely to **lead to an increase in the individual's income** from their current income-earning activities

Not deductible if...

- The self-education will enable the individual to get employment, to **obtain new employment** or to open up a new income-earning activity
- The individual is **not undertaking income-earning activities to derive assessable income** at the time they incurred the expense



Record keeping requirements

Record keeping requirements

Draft legislative instruments



Business records



Employment contracts



Relocation agreements



Rental agreements



Mobile apps & GPS data



Risk areas – tips and traps

Areas of non-compliance / focus

Common issues in these areas



**Exempt
vehicles**



**Car fringe
benefits**



**Classification
of benefit**



Entertainment



Car parking



**Reportable fringe
benefits and payroll
tax disclosure**

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

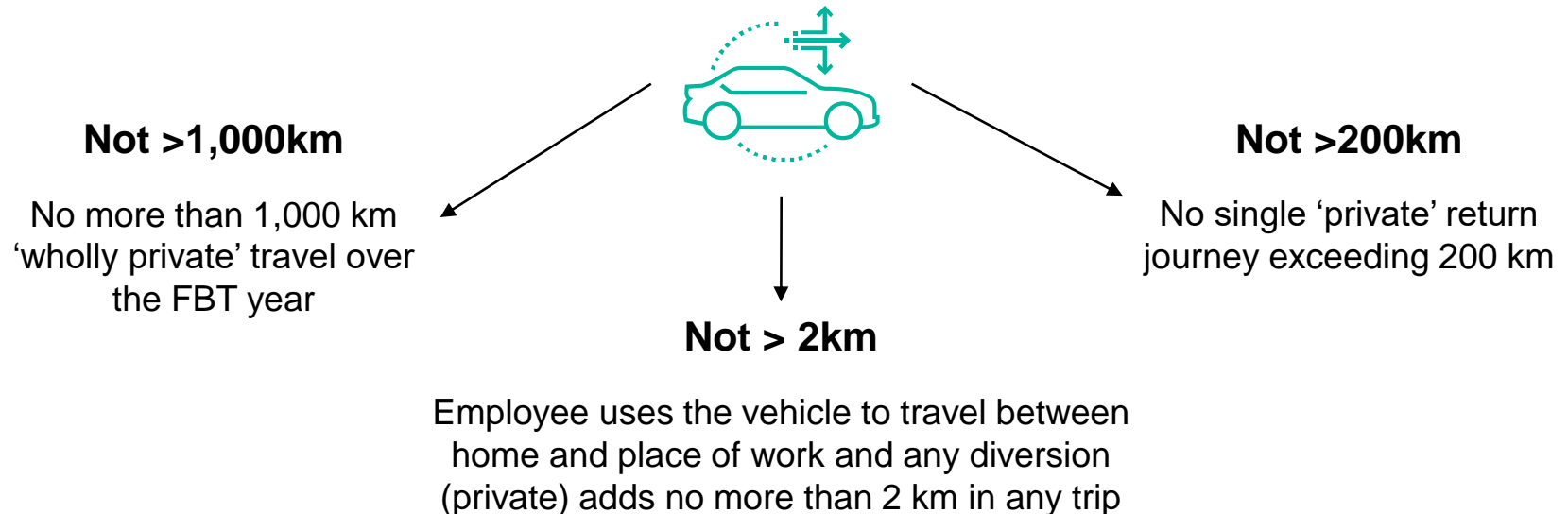
Must meet certain requirements and continue to meet them in each FBT year



Exempt car benefits and residual benefits

Compliance approach to determining private use of such vehicles

'Requirements' include



When determining private travel

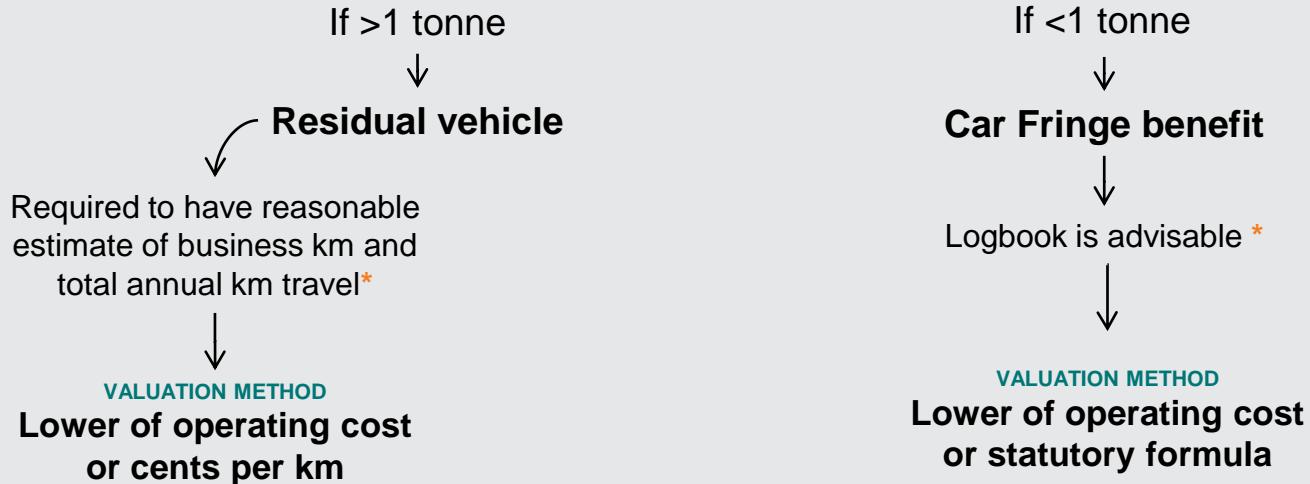
Home to work travel is disregarded. It is not considered to be private use

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



Statutory Formula

- Base value
- Stamp duty and registration excluded
- Trade-ins – employee vs employer
- 1/3 reduction to base value
- Days unavailable



Operating cost method

- Valid logbook and election made?
- Can operating cost method be used if no log book?
- Deemed depreciation and interest / lease payments

Classification of benefit



Employee

Hire Purchases a \$80,000 car in their own name
Minimal business use



Employer

Reimburses the HP payments and
car running expenses

Total paid

\$30,000 p.a.

This is an expense payment benefit

Taxable value = \$30,000

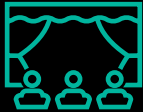
If it were a car fringe benefit, the taxable value would be \$16,000

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?
- Meal entertainment v sustenance
- TR 97/17

Common issues

Entertainment benefits – valuation methodologies



Actual cost

Available for both meal and recreation

Property, expense or residual benefit

Exemptions for consideration

Client entertainment

Minor benefits (<\$300 (GST inclusive), infrequent and irregular)

Property consumed on business premises

Tax exempt bodies (special category)

Meal entertainment election

Available for meal only

50/50 split or 12 week register

No exemptions

Based on total costs

Car parking fringe benefit

A car parking fringe benefit arises when*:



An employer provides car parking on a premises **under their control** (e.g. leased or owned)



The car parking is within 1km radius of a **commercial parking station** that charges an all-day parking fee greater than the car parking threshold of \$10.40 in 2024



Car is parked for more than 4 hours between 7am and 7pm

***Note:** this is not an exhaustive list, other criteria must be satisfied

Exemptions from car parking fringe benefits



Small business parking exemption

Not in a commercial car park
Not a government body, a listed public company or a subsidiary of a listed company
For the last income year before the relevant FBT year either

- Gross total income <\$10m

OR

- Small business aggregated turnover <\$50m



Employees with disability

Is legally entitled to use disabled person's parking space

AND

Has valid accessibility parking permit displayed on car



Exempt employer

Scientific institution (not-for-profit)
Religious institution
Charitable institution
Public educational institution

Residual vehicles

Car parking fringe benefit does not arise in relation to residual vehicles

Reportable fringe benefits amounts

Benefits with total taxable value >\$2,000 in FBT year are reportable
Grossed up by Type 2 rate - 1.8868

Most common exclusions



**Meal
entertainment**



Car parking



**Pooled or
shared cars**
(exclusion does
not apply to
residual vehicles)



**Remote area
benefits**

Electric vehicles are **reportable benefits** despite FBT exemption

Common issues – Payroll tax

Misreporting fringe benefits in payroll tax returns

1.8868

Gross up type 2 rate

No change

Fringe benefits must be grossed up using the Type 2 rate
when reporting fringe benefits for payroll tax purposes

Do not just include the RFBAs
as there are a number of exclusions not applicable to payroll tax

Contact US



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Professional Background

Ali is a Partner/Executive Director in the Tax Consulting division of Pitcher Partners Melbourne.

With more than 20 years' of tax consulting and advisory services experience his skills and experience cover a wide range of tax consulting areas, with a focus on corporate taxation issues, research and development tax incentives and employment taxes.

Recent experience includes advice on business structures and restructuring opportunities, income tax consolidation, company liquidations, employee incentives and research and development tax incentives.

Ali has advised on a broad range of tax issues to a large number of clients across a range of industries.

Industry Experience

- Property and construction
- Technology
- Manufacturing and distribution
- Retail sectors
- Start ups

Areas of Expertise

- Employment taxes including FBT, payroll tax and superannuation
- Corporate taxes including income tax consolidation
- Research and development tax incentives
- Employee share schemes
- Business structuring
- Tax reviews and audits

Professional Qualifications and Memberships

- Bachelor of Commerce (Hons) (Monash University)
- Master of Laws (Melbourne University)
- Chartered Tax Advisor (CTA)
- Graduate Certificate of Innovation and Entrepreneurship

Elena Bogomolova



Client Director

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Professional background

Elena is a Client Director in the Tax Consulting division of Pitcher Partners Melbourne. Elena has over 18 years professional experience. She has been advising in relation to employment taxes in a broad range of compliance and advisory matters.

Prior to joining Pitcher Partners in 2015, Elena worked at a Big Four accounting firm obtaining extensive experience in the Employment Taxes and Indirect Taxes practices.

Elena's professional experience also includes various appointments within the State Revenue Office of Victoria and practising as a solicitor at a Melbourne law firm.

Elena is a member of the Tax Institute of Australia's State Taxes Committee, providing valuable advice around employment taxes issues.

Industry experience

Throughout her career Elena has acted for a variety of clients in different industries ranging from multi-national corporates to government sector and not-for-profit organisations.

Areas of expertise

- Fringe Benefits Tax
- Superannuation Guarantee
- PAYG Withholding
- Payroll Tax
- WorkCover
- Employee Share Schemes
- Contractor Management
- Salary Packaging
- Payroll Consulting
- Tax Governance

Professional qualifications and memberships

- Bachelor of Laws and Bachelor of Commerce (Accounting) (The University of Melbourne)
- Admitted to practice as Australian Legal Practitioner since 2005
- Member of the Law Institute of Victoria
- Member of the Taxation Institute of Australia ("TIA")
- Member of the TIA's State Taxes Committee

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Professional Background

Peejade is a Client Director in the Tax Consulting division of Pitcher Partners Melbourne. He is an employment taxes specialist with over 15 years of professional experience in advising on compliance and advisory matters.

Prior to joining Pitcher Partners in 2023, Peejade was the national employment taxes leader for one of the largest corporates in the transport and logistics industry.

Peejade's professional experience also includes various appointments in Big Four and mid-tier accounting firms, where he advised clients across a range of industries, including government departments and not-for-profit organisations.

Industry Experience

- Transport & logistics
- Science & Technology
- Mining
- Government
- Not-for-profit

Areas of Expertise

- Employment taxes including Fringe Benefits Tax, Superannuation Guarantee, PAYG Withholding, Payroll Tax and WorkCover
- Contractor Management
- Employee Share Schemes
- Salary Packaging
- Payroll Consulting
- Tax Governance

Professional Qualifications and Memberships

- Bachelor of Commerce (University of Melbourne)
- Master of Taxation (University of Melbourne)
- Chartered Accountant (CAANZ)
- Member of the Taxation Institute of Australia

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