



Fringe Benefits Tax Update

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Acknowledgement of Country





What we are covering today

Ali
Suleyman

Basic concepts

Key dates, rates
and thresholds

Peejade
Cheng

Recent developments

Record keeping
requirements

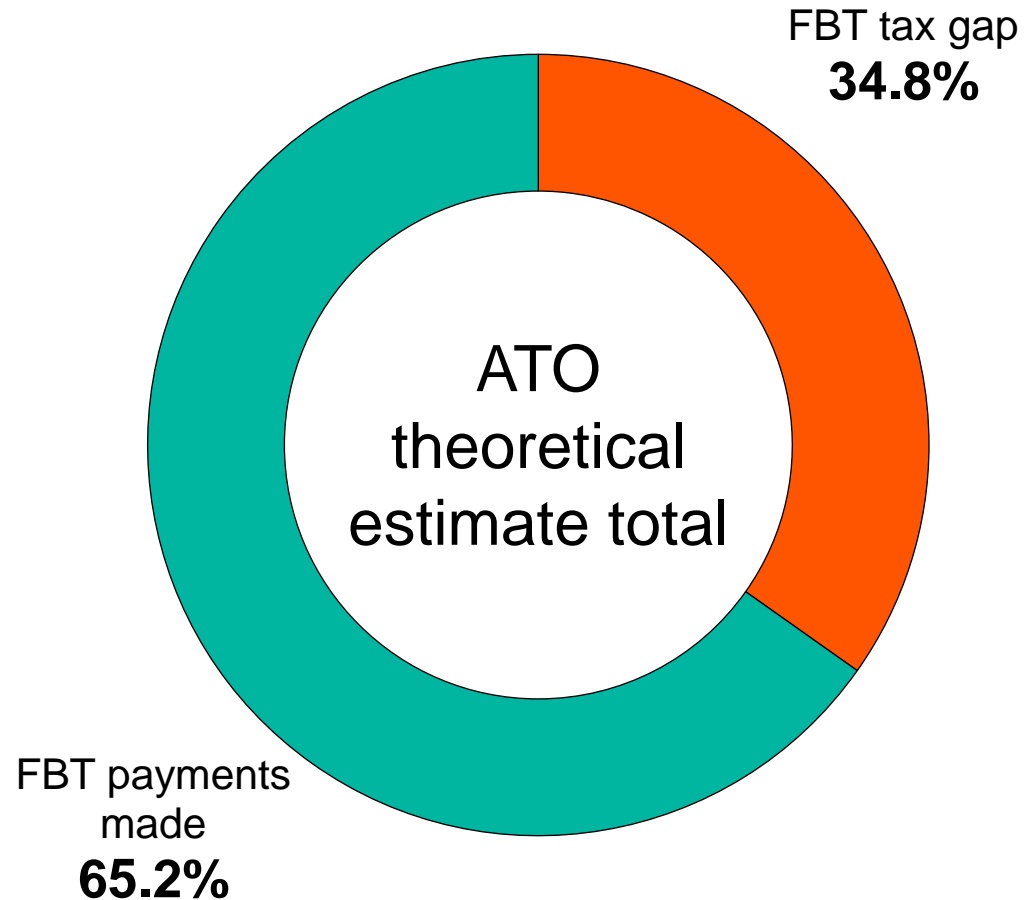
Elena
Bogomolova

Risk areas –
tips and traps



Compliance activities

Focus on small-medium sized employers



Factors driving tax gap

- Unreported FBT – small-medium sized employers providing motor vehicle fringe benefits without registering for FBT
- Lack of awareness – application of the law, valuation and calculation rules and concessions and exemptions

ATO action in closing the gap

- ATO-led education
- Analysis of third-party data, e.g. novated lease providers
- Employer obligations audit



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



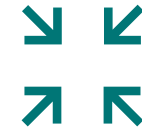
Employee

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
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Exemption availability



General

e.g. minor
benefits, work
related items

Specific

e.g. in-house
child care
facilities



Reductions



'Otherwise
deductible'
rule

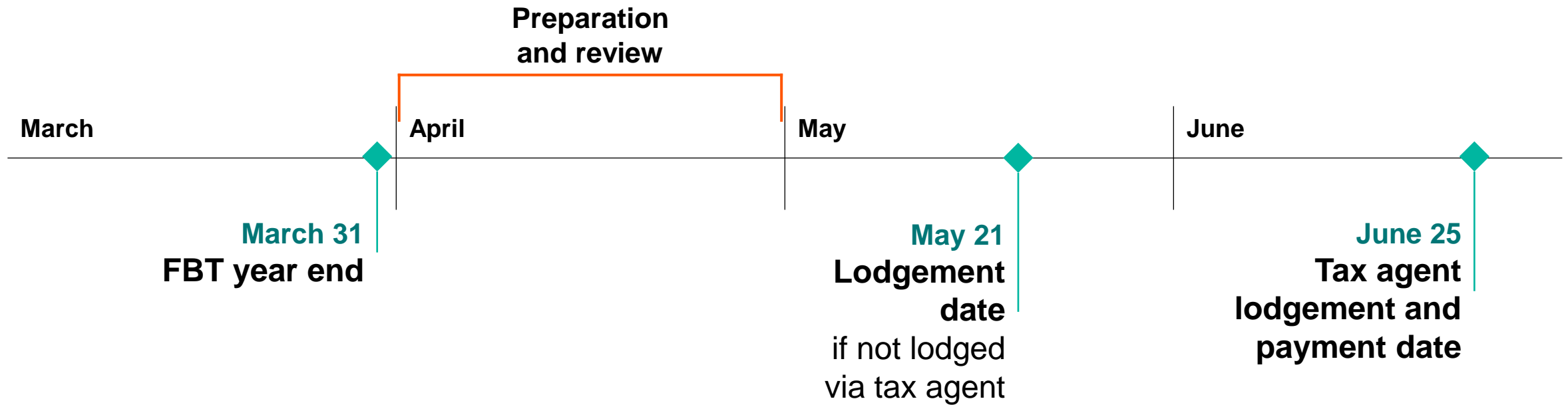
Employee
contributions



Key dates, rates and thresholds



Key dates for 2025



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 7 November 2024 = \$330

EXAMPLE

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

MAXIMUM PENALTY

\$330 X 500 = \$165,000

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

8.77%

Benchmark interest rate

Up from 7.77%

\$10.77

Car parking threshold

Up from \$10.40

Affects the following cents per km rates for residual motor vehicle



0-2500cc

66 cents/km

Up from 62 cents/km



Over 2500cc

77 cents/km

Up from 73 cents/km



Motorcycle

19 cents/km

Up from 18 cents/km



Recent developments



Commercial Parking Station

Toowoomba Regional Council v Commissioner of Taxation



Can a shopping centre car park be considered a **‘commercial parking station’** for FBT purposes?

- Operated in trade or commerce vs operated commercially for profit (as a stand-alone car park)
- Federal Court held that shopping centre car park is not a commercial parking station



Electric vehicles exemption

Current state of play

Exemption applies to **electric vehicles** that are categorised as



Battery-powered



Hydrogen
fuel cell



Plug-in
hybrid



Electric vehicles exemption

Current state of play – 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 \$91,387 in FY25



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 (\$69,674)



Electric vehicles exemption

Key changes for 2025 and beyond

From 1 April 2025

Plug-in hybrid vehicles (“PHEVs”) will **no longer be eligible** for exemption

**Grandfathering of PHEVs held prior to 1 April 2025,
subject to following conditions**

if PHEV was exempt from FBT
before 1 April 2025

AND

Financially binding commitment
which **continues after 1 April 2025**



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.

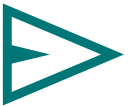
Provision of home charging station



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



Benefits received

By Directors / Owners

Family members involved in a family-run business tend to receive non-cash benefits

Common FBT considerations include whether

- The family members should be considered employees of the business; **and**
- **The non-cash benefits** have been provided to the family members in respect of their employment

A photograph of two women in a clothing store. The woman on the left is smiling and looking at her smartphone. The woman on the right is looking at her phone and has a paper shopping bag. A teal speech bubble is overlaid on the image.

Clarification
on
fundamental
concepts

Benefits received

By Directors / Owners

Background

Involves two adult sons with 'hands-on' roles in the family business, which is carried on by a discretionary trust with a corporate trustee

Sons were given access to luxury cars to be used for private purposes

AAT ruled

Adult sons not employees of the trust, and the luxury cars not provided 'in respect of employment'

Administrative
Appeals
Tribunal ("AAT")
decision in the
BQKD case

Employee contributions

Contribution via journal entry

- **Updated ATO guidance on requirements for journalised employee contributions** to be recognised for FBT purposes
- **Demonstration of a genuine set-off arrangement**
 - **Obligations** to contribute and set off arrangement clearly documented
 - **Journal entries** completed by the preparation of current year's financial accounts
 - Journal entries alone are not sufficient – **supporting documents** must be retained



Journal entries alone are not sufficient

Alternative record keeping



Alternative Record Keeping

From 1 April 2024
Can choose to rely on alternative records
(as determined by the Commissioner) for certain FBT benefits

If using the alternative records option, you must have the minimum required information at the time of lodging your FBT return (or by 21 May if no return is required)

Accepted by the Commissioner as records in place of travel diary or certain employee declarations

→ Travel Diary

→ Living-away-from-home allowance

→ Otherwise Deductible Rule

→ Relocation & Remote Areas

→ 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
Payroll tax disclosure**



PCG 2018/3

Exempt car benefits and residual benefits

- **Relates to vehicles eligible for Workhorse exemption**
e.g. utes, panel vans, dual cabs and vehicles “with load carrying capacity > or <1 tonne”
- **Records to demonstrate private use** is ‘minor, infrequent and irregular’
- 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



Not >1,000km
No more than 1,000 km
'wholly private' travel
over the FBT year

Not > 2km
Employee uses the vehicle to travel
between home and place of work
and any diversion (private) adds no
more than 2 km in any trip

Not >200km
No single 'private' return
journey exceeding 200 km

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

If >1 tonne

Residual vehicle

Required to have reasonable estimate of business km and total annual km travel *

VALUATION METHOD

Lower of operating cost or cents per km

If <1 tonne

Car Fringe benefit

Logbook is advisable *

VALUATION METHOD

Lower of operating cost or statutory formula

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



Car fringe benefits

Common issues



Statutory Formula Method

Calculation of base value – stamp duty and registration excluded

Days unavailable

1/3 reduction to base value

Trade-ins – employee vs employer



Operating Cost Method

Deemed depreciation and interest / lease payments

Valid logbook and election made?

Can operating cost method be used if no log book?



Classification of benefit



Employee

Hire purchases a \$80,000 car in their own name

Minimal business use



Employer

Reimburses hire purchase costs and car running costs

Total paid \$30,000 p.a.

As the car is under employee's name, this is an expense payment benefit

Taxable value = \$30,000

The taxable value of car fringe benefit using the statutory formula would be \$16,000
(i.e. 20% of \$80,000)



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?
- ATO Guidance TR 97/17



Entertainment benefits

Common issues

Valuation methodologies



Actual cost

Available for both meal and recreation

Property, expense or residual benefit

Exemptions for consideration

Client entertainment

Property consumed on business premises

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

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 benefits

TR 2021/2

- Provided on premisses leased or owned by the employer
- In vicinity of the employee's primary place of employment
- Car* is parked for more than 4 hours from 7 am to 7 pm
- Within 1 km radius – commercial parking station - charges > \$10.77 for a full day parking (at least 6 hours)

*No car parking fringe benefit arises in relation to residual vehicles



Exemptions from car parking fringe benefits

Fringe Benefits Tax

Small business parking exemption

- Not in a commercial car park
 - Not a government body, a listed public company or a subsidiary of a listed public company
 - For the last income year before the relevant FBT year, either:
 - Gross total income < \$10m
- OR**
- Small business aggregated turnover was < \$50m

Employees with disability

- Is legally entitled to use a disabled person's parking space
- AND**
- Has a valid accessibility parking permit displayed on the car

Exempt employer

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



Reportable fringe benefits

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



Payroll Tax

Common issues

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



Salary packaging

Concessional, “Otherwise Deductible” & Exempt Benefits



FBT Exempt Benefits

- In-house Goods
- Portable Electronic devices (laptops, phones etc)
- Relocation
- LAFHA – residents
- Remote Area
- Car parking (small business / certain tax exempts)
- Entertainment facility leasing (tax exempts)
- Dual Cabs
- In-house Childcare

Subject to satisfying exemption requirements



Otherwise Deductible Benefits

- Professional memberships
- Airport lounge / club memberships
- Income protection insurance
- Self-education
- Interest on investment loans



Concessional Benefits

- Motor vehicles
- Car Parking



Questions?

Contact us



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