



Fringe Benefits Tax Update

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What we will cover

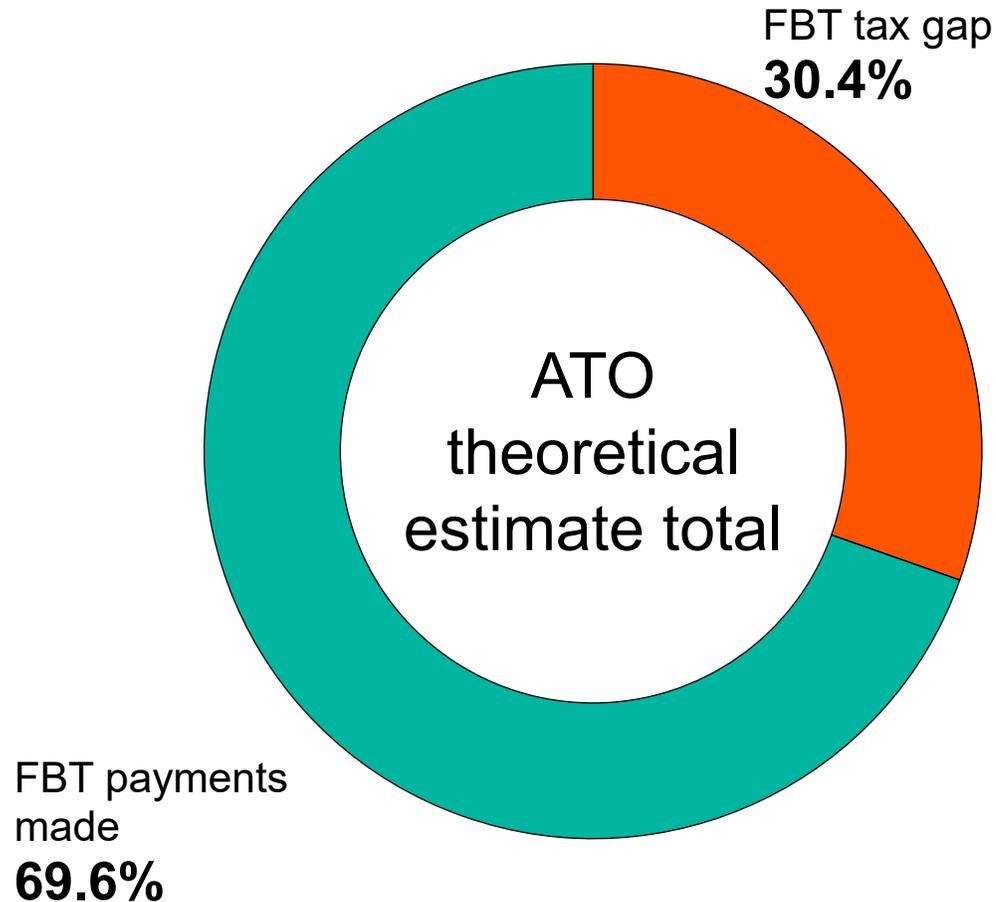
- FBT compliance and ATO activities
- Overview and key concepts
- Key dates, rates and thresholds
- Common benefits
- Recent developments
- Risk areas, tips and traps

Making
business
personal



ATO Compliance activities

Focus on small-medium sized employers



Factors driving tax gap

- Gap is closing based on latest estimate
- Providing motor vehicle fringe benefits without registering for FBT
- Misunderstanding of the law, valuation rules, concessions and exemptions

ATO action in closing the gap

- Analysis of third-party data
- Reviews and Employer obligations audits
- Focus on motor vehicles and entertainment



Overview and concepts



What is a 'fringe benefit'?

FBT overview and concepts

Four key steps

- ✓ Benefit: "includes any right, privilege, service or facility ..."
- ✓ 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

NOTE

Some benefits are excluded from the definition of a fringe benefit including salary & wages, superannuation contributions to complying funds and employment termination payments (ETPs)



FBT overview and concepts

Further considerations



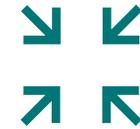
Employee?

A person in receipt of certain payments subject to PAYG withholding (e.g. salaries & wages, directors' fees)



Extended definition of employee

Can capture persons who only receive non-cash benefits



'In respect of employment'

Is there 'sufficient and material connection' between employment and the benefit?



FBT overview and concepts

12 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 overview and concepts

Exemption available?



Exemption available?



General

e.g. minor benefits, work related items

Specific

e.g. in-house childcare facilities



Valuation methodology



Depends on category

GST
incl. cost

'Notional'
value

Specific
Formula



Reductions in Taxable Value



'Otherwise deductible'
rule

Employee contributions



Dates, rates and thresholds



Rates and thresholds

47%

FBT rate

No change

2.0802

Type 1 gross up rate

No change

1.8868

Type 2 gross up rate

No change

8.62%

Benchmark interest rate

Down from 8.77%

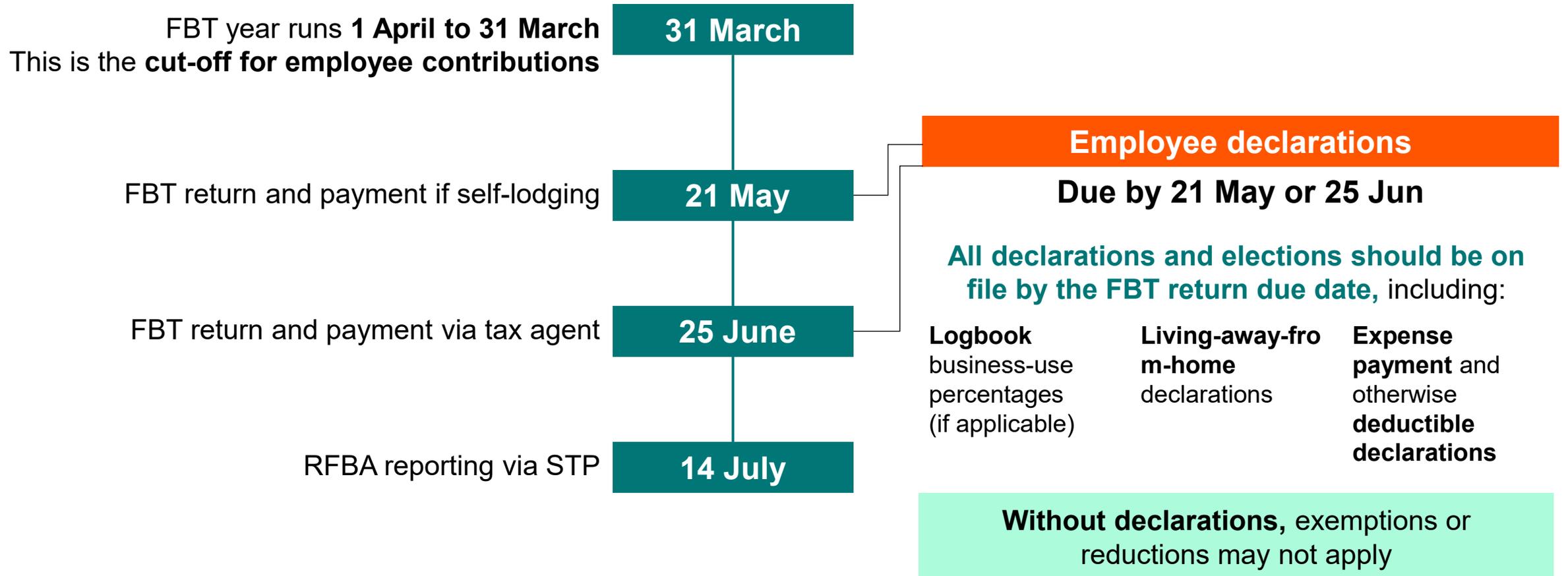
\$11.03

Car parking threshold

Up from \$10.77



Key dates for 2026



Late lodgement penalties

Why is it important to lodge on
time or get an extension?

\$1,650 to \$8,250
per 28 days
Most taxpayers
Small, Medium and Large

Up to \$165,000
SGEs specifically



Cars and other vehicles



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 FY26



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

Current state of play

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



Battery-powered



Hydrogen
fuel cell



Plug-in
hybrid (PHEV)*

*Only applies to PHEVs acquired before 1 April 2025
with a financially binding commitment in place



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



What is an exempt vehicle?

'Workhorse' exemption

- **A work-related vehicle** that is not designed principally to carry passengers
- **Private use by the employee is limited**

Common examples include



Single-cab or dual cab utes



Panel vans



Delivery vans



Common mistake - Assuming that “utes are always exempt” and not checking specifications and personal usage

Vehicles are provided mainly to get work done — not for personal convenience

Private use is the critical test

When does exemption apply?

The exemption only applies if private use is minor, infrequent, and irregular



Exemption may still apply

- Travel between home and work
- Incidental detours, like stopping for fuel or groceries
- Occasional, non-routine use



Exemption may not apply

- Regular weekend use
- Towing boats or caravans
- Holiday or recreational travel

**Once private use becomes regular or substantial,
the exemption is lost and FBT applies**

When determining private use of the vehicle

Home to work travel is not considered to be private use



ATO Safe Harbour – PCG 2018/3

Under this guideline, the ATO will not devote compliance resources and accept that a vehicle as exempt where:



Total private travel is **no more than 1,000 km per year**



No single private return journey exceeds **200 km**



The vehicle is genuinely a work-related vehicle



The employer has policies restricting private use



What the ATO expects

If you're claiming an exempt vehicle, the ATO expects **evidence**

Evidence includes



A clear policy
restricting private use



Substantiation
documentation –
employee declarations



Employer reasonable
monitoring or checks



Documentation
supporting vehicle
classification

Exempt vehicles can eliminate FBT, but the **exemption is not automatic**



Taxable car benefits and residual benefits

When '*workhorse*' vehicle exemption does not apply

If load carrying capacity >1 tonne



Residual vehicle



VALUATION METHOD

Lower of operating cost or cents per km

Cannot use statutory formula



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

If load carrying capacity <1 tonne



Car fringe benefit



VALUATION METHOD

Lower of operating cost or

statutory formula



Logbook is advisable *

* **When determining taxable value** – Home to work travel is typically considered 'private use', some exceptions apply (Miscellaneous Taxation Ruling MT 2027)



Car fringe benefits

Common issues



Statutory
Formula Method

Base value – **inclusive** of GST, luxury car tax, dealer delivery charges and non-business accessories, but **exclusive of** stamp duty and registration

1/3 reduction to base value after 4 full years

Trade-ins – employee vs employer

Days unavailable



Operating
Cost Method

Deemed depreciation and interest or lease payments

Valid logbook and election made **before** lodgment?

Can operating cost method be used if **no logbook**?



Common employer mistakes

- ❌ **Assuming** all utes are automatically exempt
- ❌ **Failing to calculate** payload correctly
- ❌ **No declarations from employees** to substantiate private use
- ❌ If **exemption fails**, lacking information to determine taxable value
- ❌ **Not reassessing** vehicle status **year to year**



Entertainment



What is an ‘entertainment benefit’?

Entertainment

1. Includes **recreation** and **meal entertainment**
2. Accommodation and travel provided in conjunction with entertainment

Meal entertainment benefits

- 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 benefits

Exemptions for consideration

Client entertainment

Property consumed on business premises

Minor benefits (<\$300 GST incl and infrequent & irregular)

Tax exempt bodies
(special category)



Meal entertainment election

Option for meal entertainment only
50/50 split or 12 week register

Election required

No exemptions available

Based on total costs including client costs



Car parking



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
- (Commissioner’s position – decision impact statement)



Car parking benefits

TR 2021/2

- Provided on premises owned, leased or otherwise under control of employer
- In vicinity of the employee's primary place of employment
- Car* parked for more than 4 hours between 7am & 7pm
- Within 1 km radius of where parking provided – a commercial parking station charges > \$11.03 for all 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



Miscellaneous issues



Otherwise Deductible Rule

- **How it works** – Employee only, once only deduction e.g. does not apply to depreciation
- **Benefits** to associates / shared benefits –
- **Proper documentation** – Declarations / recurring declarations
- **Overstating** business use (e.g. 100% declarations)
- **Restrictions** regarding motor vehicles without logbooks and proper records



Employee / recipient contributions



Direct contribution
to employer

Usually a deduction
after tax from salary



**Unreimbursed
payment** to third party
e.g. purchase fuel



**Contribution via
journal entry**

Employee / recipient contributions reduce taxable value of benefit

Contributions via cash and journal entry constitute



Assessable income
for income tax (focus of ATO)



Trigger a GST liability
equivalent to 1/11th of the contribution



Employee contributions

Contributions via journal entry

Updated ATO guidance on requirements for **journalised employee contributions**

Demonstration of a genuine offsetting arrangement



Obligations to contribute and offsetting arrangement clearly documented (i.e. letters exchanged)



Journal entries completed by preparation of current year's financial accounts



Journal entries alone are not sufficient – **supporting documents** must be retained



Record keeping

Requirements include



All **declarations and elections** are completed by FBT lodgement date



Logbooks are fully completed and copies held by employer



Calculations, worksheets and supporting documents (e.g. receipts) are kept on file



Alternative records if using that option

Records must be kept for **5 years**



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



Benefits received

By Directors / Owners

Family members involved in a family-run business often 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 or for some other reason



Benefits received

By Directors / Owners

Background

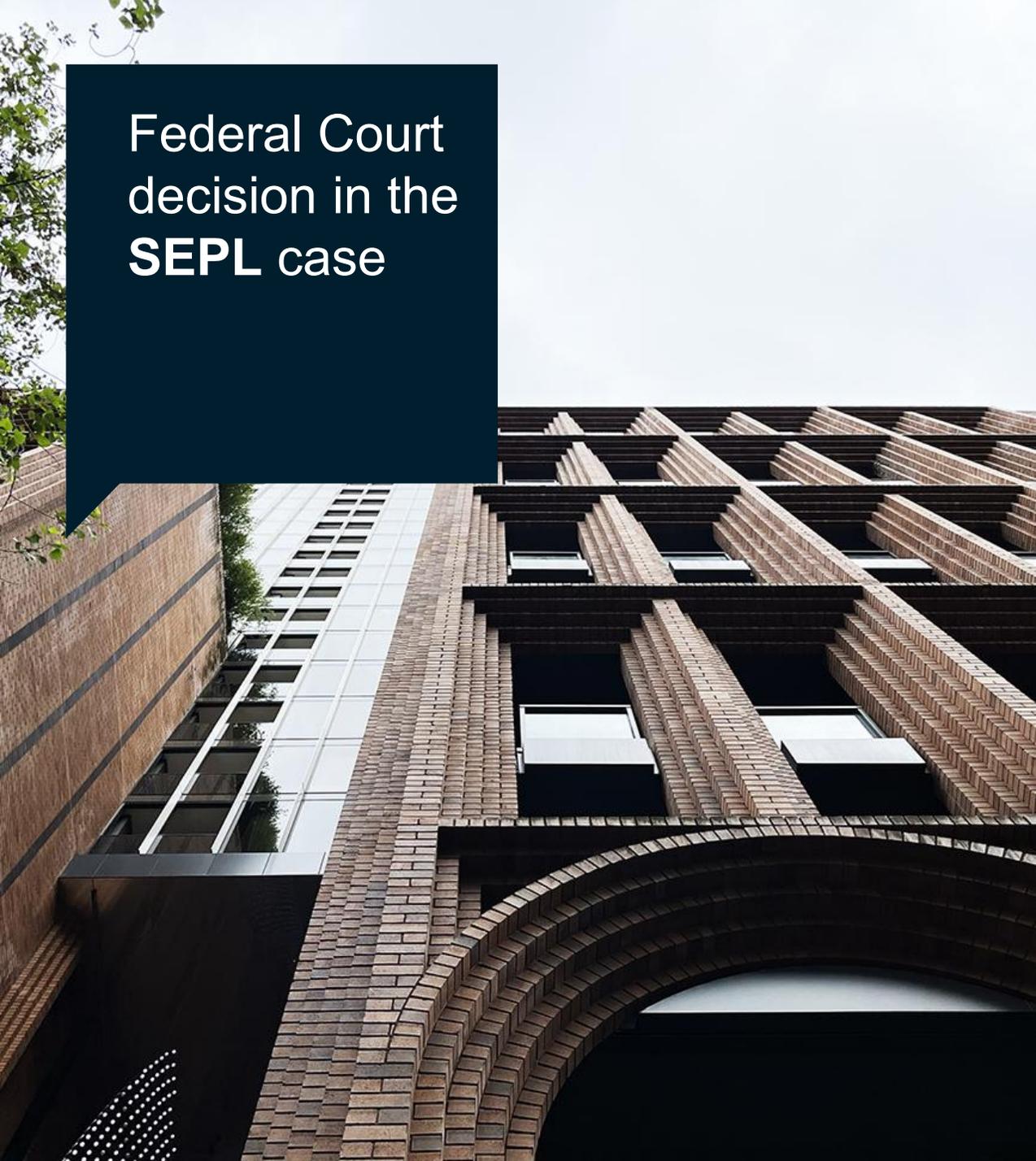
Involved three brothers with 'hands-on' roles in the family business. They were also directors of corporate trustee and beneficiaries of trust

Brothers had access to luxury cars which were used for both business and private purposes

Federal Court ruled ...

Brothers were considered **employees** of the business and the luxury cars were provided '**in respect of employment**'

Decision is subject to appeal



Federal Court
decision in the
SEPL case

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

Fringe benefits must be grossed up using the Type 2 rate

1.8868

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 and electric vehicles are exempt from FBT and, therefore payroll tax



Questions?

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