



**Australian Government**

**Australian Taxation Office**

# Fringe Benefits Tax

2018 ATO Update for Intermediaries


**Presented by:** Taras, Izzy and Chris, Australian Taxation Office / 18 October 2018

# Session overview

- ❑ What attracts our attention
- ❑ Tips for common errors
- ❑ FBT law updates
- ❑ FBT updates
- ❑ Thresholds
- ❑ Lodgement

# What attracts our attention

1. Motor vehicles
2. Employee contributions
3. Non-lodgement
4. Car parking valuation
5. Entertainment



The screenshot shows the Australian Taxation Office (ATO) website. At the top left is the Australian Government crest and the text 'Australian Government' and 'Australian Taxation Office'. To the right is a search bar with the text 'Search ato.gov.au' and a magnifying glass icon. Below the header is a navigation menu with links: 'Home', 'Individuals', 'Business' (highlighted with a teal underline), 'Not-for-profit', 'Super', 'Tax professionals', and 'About ATO'. Below the navigation menu is a breadcrumb trail: 'Home / Business / Privately owned and wealthy groups / What you should know / Transparency / What attracts our attention'. To the right of the breadcrumb trail is a printer icon. The main content area has the text 'Privately owned and wealthy groups' on the left and 'What attracts our attention' on the right, with a horizontal line underneath the latter.

[www.ato.gov.au](http://www.ato.gov.au) (QC 44834)

# 1. Motor Vehicles

## Private use of motor vehicles



- > We gather information on new cars acquired by businesses.
- > Our focus is on ensuring that private use of cars is correctly reported in the FBT return.
- > Correct treatment of private use of 4WD, utes and other commercial vehicles (QC 21311)
- > A car benefit can be taxable even if the employee has not driven the car – it only has to be available for their private use.
- > **5.3 Motor vehicle FBT exemptions**



## 2. Employee contributions

### Correct treatment in income tax return and FBT return



- > Employee contributions are assessable income to the employer.
- > We want to ensure that employee contributions paid by an employee to an employer have been declared in both the fringe benefit tax return and the employer's income tax return.
- > Issues we want to avoid:
  - The employer fails to report these contributions as income in the income tax return.
  - The employer overstates such contributions in the FBT return.



### 3. Non-lodgement

#### Those that are not within the FBT system

- > Common errors that attract our attention include:
  - Failure to identify fringe benefits provided;
  - Incorrect calculation of benefit values or reduction amounts.



## 4. Car parking valuation

### Validity of valuations provided for car parking fringe benefit



- > Common errors that attract our attention include:
  - market valuations that are significantly less than the fees charged for parking within a one kilometre radius of the premises on which the car is parked;
  - the use of rates paid where the parking facility is not readily identifiable as a commercial parking station;
  - rates charged for monthly parking on properties purchased for future development that do not have any car park infrastructure;
  - insufficient evidence to support the rates used as the lowest fee charged for all day parking by a commercial parking station.
  - Refer to [Chapter 16](#) - Car parking fringe benefits in FBT – a guide for employers
  - **6.1 FBT – car parking fringe benefits: Review of TR 96/26 – Qantas and Virgin court cases.**



## 5. Entertainment



### Identifying the fringe benefit for the provision of entertainment

- ❑ An **expense payment** fringe benefit - for example, reimbursement of theatre tickets purchased by an employee
- ❑ A **property** fringe benefit – for example, providing food and drink
  - **Appendix C property benefit exemption**
- ❑ A **residual** fringe benefit – for example, providing accommodation or transport
- ❑ A **meal entertainment** fringe benefit provided by way of, or in connection with food or drink.
  - **5.1(a) (b) Tax-exempt body meal entertainment – issues raised by states and territories**
- ❑ A **tax-exempt body entertainment** fringe benefit.



# ... Entertainment

## Factors to be taken into account



**Why**  
“Purpose test”  
refreshment  
vs  
social situation

**What**  
morning tea or  
light lunch  
vs  
three course meal  
during work lunch

**When**  
during work time,  
overtime, or whilst  
travelling for work,  
provided for work  
related purposes  
vs  
staff social function

**Where**  
employer's  
business  
premises or usual  
place of work  
vs  
hotel, restaurant,  
café or consumed  
with other form of  
entertainment

# Tips for common errors

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## Common errors identified in ATO client engagement:

1. Log books: incorrect record keeping
2. Employee contributions to offset FBT
3. Expense payments



# 1. Log books: incorrect record keeping



## Substantiation in determining reasonable business use

- > **The operating cost method for cars is available when a valid log book has been completed.**
- > Without a valid log book, the business use percentage is deemed to be nil.
- > Common errors in the completion of log books are:
  - Vague descriptions of trips that leave out important details (purpose of the journey);
  - Odometer readings are not recorded, with annotation of the length of the trip only.
- > Refer to [ato.gov.au](http://ato.gov.au) (QC 33731) for more details on the requirements.

## ... Log books example 1

### km travelled

- > The log book represents a 12-week period where 6,000 km was travelled.
- > The annual kilometres from the service records should reflect approximately 24,000 km.
- > If not, the log book period may not reflect a reasonable business use estimate.



## ... Log books example 2

### Travel between home and work

- > Generally travel between home and work is private in nature (unless within relevant exemptions).
- > A common mistake is to record travel between home and work as business use.
- > E.g. Director has a “home office” and a location the director regularly attends for undertaking work. In this situation, the travel between home and work would be of a private nature, as the “home office” is more likely for convenience rather than the primary location of the business.



## ... Log books example 3

### Change in pattern of use



- > Another error that can occur from time to time is where there has been a change in the pattern of use.
- > The log book prepared prior to the change is relied upon to calculate the reasonable business use estimate.
- > Where circumstances change reasonable adjustments need to be made to reflect the change of circumstances, such as a business moving locations or an employee moving house.
- > Often if the change is significant, a new log book should be completed.

## 2. Employee contributions to offset FBT

### Common issues identified

1. Employers not being able to show that the employee has an obligation to make an employee contribution.
2. Employers not having an agreement in place with employees to offset an existing liability.
3. Employers using excess employee contributions from one fringe benefit type to offset an FBT obligation relating to another fringe benefit type.

[MT 2050](#) provides details on what is “accepted” for recording employee contributions via journals





## ... Employee contributions to offset FBT

### Example 1 – incorrect recording of FBT

- > Company policy requires all employees to make employee contributions to reduce car fringe benefits to nil.
- > The director and the company have agreed, as shown in company minutes, that the contribution by the director will be by journal entry debiting the loan account and the employer will lend the amount of employee contribution.
- > An ATO review finds that there is also a housing fringe benefit.
- > The employer can only show that the employee contribution obligation was in place for any car fringe benefits. There is no evidence of such an obligation for the housing fringe benefit.
- > No journal entries or cash payments by the employee are acceptable for the housing fringe benefit: the taxable value cannot be reduced by any amount of recipient's rent in these circumstances.



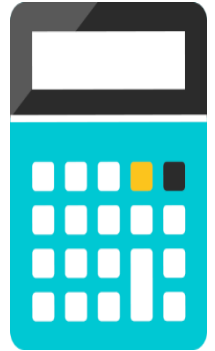


## ... Employee contribution to offset FBT

### Example 2 – incorrect recording of FBT

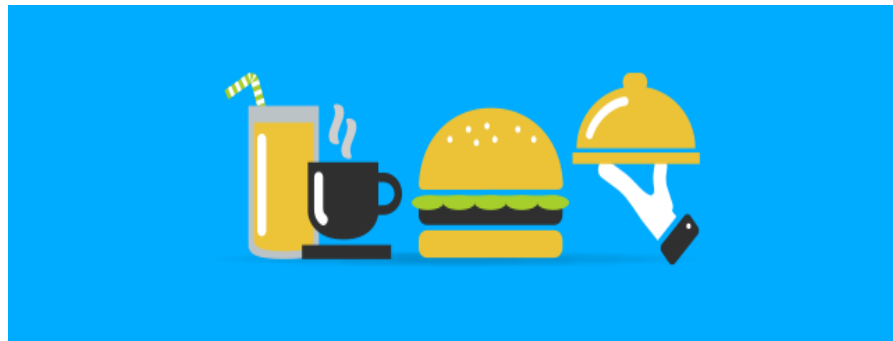
- > An employer is reviewed by the ATO in March 2017.
- > As part of the review, it is determined that fringe benefits were provided and the company needs to pay FBT for the FBT years ending 31 March 2016 and 31 March 2015.
- > The employer wants to use journal entries to enable employee contributions to reduce the taxable value of car fringe benefits to nil.
- > The employer cannot provide documentation showing the employee has an obligation to make contributions, the employer has an obligation to make a payment and that they have agreed to offset these obligations.
- > In this case, employee contributions cannot be accepted as having been made via journal entry to reduce the taxable value of the car fringe benefits to nil.

# 3. Expense payments



## Issues when director has private expenses paid by company

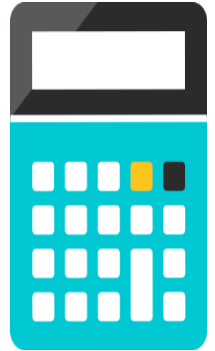
- > Directors and shareholders can also be employees of a company when they work in its business. This means FBT can apply to payments and benefits provided to those individuals.
- > Not all payments have their purpose identified – are they business or private?
- > It's really important to have:
  - a clear understanding of which payments are private and those that are for business purposes; and
  - an effective recording system to ensure private expenses are not deducted and recorded as a loan in the accounts.



## ... Expense payment

### No “double dipping”

- > Work expenses reimbursed to an employee by their employer are not deductible on the employee’s income tax return.
- > The ATO can seek information from employers if it suspects employees have claimed a deduction for an expense that the employer reimbursed.
- > You can find the declarations on [www.ato.gov.au/forms/employee-declaration](http://www.ato.gov.au/forms/employee-declaration) (QC 17516).



# Tips



- Have systems and procedures in place to identify when fringe benefits are provided
- Review accounts and other information to identify fringe benefits provided
- Ensure you satisfy all conditions before claiming an exemption or reduction
- Account for any income tax and GST on employee contributions received and include details on income tax returns
- You can now download copies of the FBT return from our website (2018 return and instructions should be available from late March)
- From 2017 and onwards instructions are not available in print or as a downloading PDF document. It is available as a web version which is in line with other return instructions

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# FBT Law updates

Reportable fringe benefits update

Small business entity FBT concession

Worker entitlement contributions

Changes to FBT rate



# Reportable fringe benefit changes

- > Affects employees of non-exempt employers.
- > **RFB amounts** will no-longer be de-grossed when calculating Adjusted Taxable Income for various Family Tax Benefit, Social Security and tax offset entitlements, as well as HECS and Medicare Levy Surcharge obligations.
- > It does not affect employees of exempt employers.
- > Employers need to identify on their employees' payment summaries whether they are exempt or non-exempt.
- > When reporting through Single Touch Payroll, complete either the RFB amount label for exempt employers or the label for non-exempt employers.
- > Applied to RFBs provided
  - from 1 January 2017 for Family Tax obligations; and
  - from 1 July 2017 for tax programmes.



## Worker entitlement contributions

- > Changes proposed by the *Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2017*.
- > Applies from the date of commencement.
- > The exemption for worker entitlement contributions will only be available to an employer where the contribution is made to a fund either:
  - Registered under the *Fair Work (Registered Organisations) Act 2009*
  - Established by or under, and operation under, a law of the Commonwealth, a state or territory, for the purposes of ensuring that long service leave is paid.
- > Other existing conditions for the exemption are not changed.
- > Funds that are currently endorsed, or seeking endorsement as a worker entitlement fund for FBT purposes will be required to register under the *Fair Work (Registered Organisations) Act 2009*.



## Small business entity threshold

- > Applies from 1 April 2017.
- > Small business entities with an aggregated turnover of less than \$10m are able to access the small business car parking exemption and extended work-related items exemption.
- > See *Small business entity concessions* (QC50252) on [ato.gov.au](http://ato.gov.au) for more information





## Changes to FBT rate

- > As announced in the Budget on 8 May 2018, the government will not be proceeding with legislation to increase the Medicare Levy.
- > As a consequence, the FBT rate will remain unchanged at 47%
- > Gross up factors for type 1 and type 2 benefits will also remain unchanged





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FBT updates

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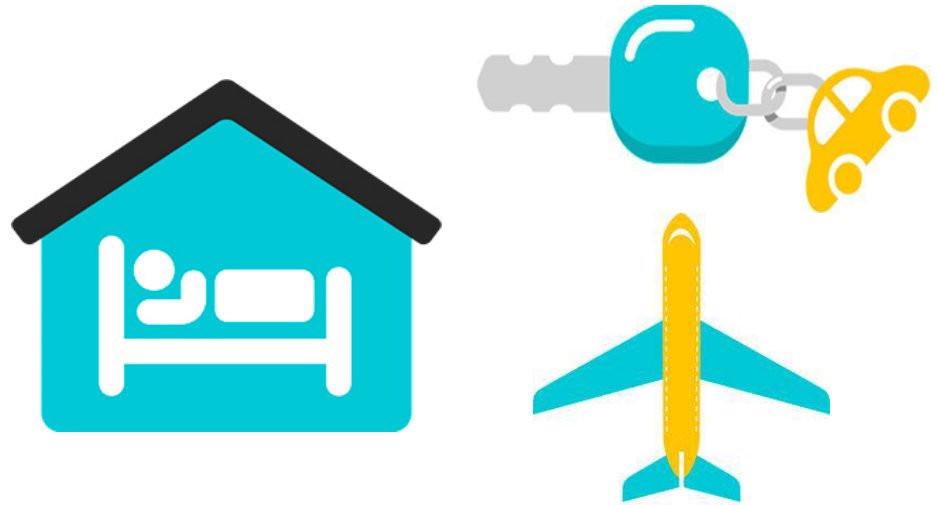
# Simplified approach for calculating car fringe benefits - PCG 2016/10

- A practical compliance guideline issued on 19 October 2016.
- Provides an optional, simplified approach for calculating car fringe benefits in respect of fleet cars.
- Certain criteria must be satisfied for the guideline to apply.
- For more information, refer to our answers to frequently asked questions page (QC 52336).



# Travel deductions

TR 2017/D6



The draft Ruling covers the deductibility (and the operation of the ‘otherwise deductible’ rule for FBT) of transport costs, and accommodation, meal and incidental expenses when employees travel away from home for work.

It discusses living away from home as distinct from travelling away from home for work

It addresses two common apportionment scenarios:

- employees accompanied by their spouse on a work trip
- employer approves an employee to schedule one leg of a work trip to accommodate an incidental private component.

# Advice under development

Updates to existing rulings

[TR 96/26](#) : Fringe benefits tax: car parking fringe benefits

The ruling is being updated to reflect contemporary commercial car parking arrangements and legal developments including recent Federal Court decisions

[TR 92/17](#): Income tax and fringe benefits tax: exemptions for 'religious institutions'

The ruling is being updated to reflect changes in law, including the establishment of the Australian Charities and not-for-profits Commission as the national regulator of charities.

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FBT return common errors,  
lodgment and payment  
dates, FBT rates, **FAQ'S**

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FBT lodgment due

# Common errors when completing FBT returns



- Lodging your FBT return using a form for the wrong year
- Incorrectly stating your ABN or TFN information
- Incorrectly stating that you won't need to lodge future FBT returns
- Necessary items not completed  
e.g. address changes, benefit details, tax calculations, declaration
- Completing items not relevant to your circumstances  
e.g. Trustee details, items relating to not-for-profit employers
- Incorrect FBT Instalment amount at item 20. Ensure this amount matches what has been reported on your Activity Statements.



**Refer to instructions for completing your FBT return**

# Tips



- If you **don't** need to lodge an FBT return **complete** a [Fringe benefits tax - notice of non-lodgment \(QC16542\)](#)
- Self preparers who need **additional time** to lodge or pay should contact us **before** the due date:

Using the Business Portal select “Additional time to lodge-deferral request” from the new message options and “Payment arrangement request”

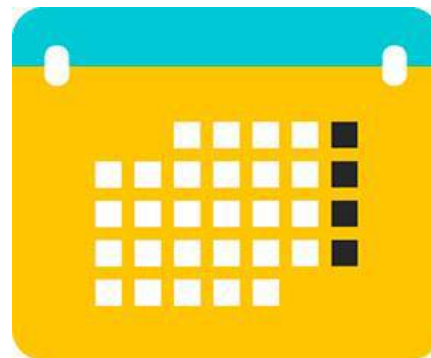
Call **13 28 66**, then select option **3** and then option **3** again for lodgment deferrals

Call **13 11 42**, for payment arrangements

- FBT instalment payers should lodge **all** quarterly activity statements **prior** to lodging an FBT return



## Key 2019 FBT dates



Date	Obligation
21 May	Final date for appointing a tax agent for an FBT role.
	Lodge and pay FBT return.
	Final date for states and territories that want to nominate an eligible state or territory body as an employer, or vary, or revoke a previous nomination.
28 May	Pay <i>Fringe benefits tax annual return</i> if under the lodgment program.
25 June	Lodge <i>Fringe benefits tax annual return</i> for tax agents (if lodging electronically). Payment (if required) is due 28 May.

# Lodgement and payment options



Online with Standard Business Reporting ([SBR-enabled software](#))



**Paper** return – downloaded from ato.gov.au (in the forms and instructions section) or call us for a paper return (ask for NAT number 1067)

> [online](#) (QC 33525)

> by phone on 1300 720 092



We offer a range of **payment options** – see to [How to pay](#) (QC 50295 & 50296)

## No need to lodge?

- [Fringe benefits tax - notice of non-lodgement](#)
- FBT non-lodgement advice for registered agents (QC40839) and lodge using the Portal

# Thresholds for the 2018 & 2019 FBT years



	2018	2019
<b>Benchmark interest rate</b>	5.25%	5.20%
<b>Car parking threshold</b>	\$8.66	
<b>Private use of motor vehicles other than cars</b>		
<b>Engine capacity up to 2,500 cc</b>	53 cents/km	54 cents/km
<b>Engine capacity over 2,500 cc</b>	63 cents/km	65 cents/km
<b>Motorcycles -</b>	16 cents/km	16 cents/km
<b>Indexation rates for non-remote area housing benefits</b>	TD 2017/6	TD 2018/1
<b>Reasonable food and drink expenses</b>	TD 2017/5	TD 2018/3
<b>Record keeping exemption threshold</b>	\$8,393	\$8,552

For more information visit our Fringe benefits tax – rates and thresholds (QC 18846) page.

# FBT Rates



	2017	2018 (current year)
<b>FBT Rate</b>	49%	47%
<b>Type 1 Gross-up Rate</b>	2.1463	2.0802
<b>Type 2 Gross-up Rate</b>	1.9608	1.8868
<b>Payment Summary Reporting Threshold (grossed up value)</b>	\$3,921	\$3,773
<b>FBT Exemption Capping Threshold (PBIs and HPCs)</b>	\$31,177*	\$30,000*
<b>FBT Exemption Capping Threshold (Public and Non-profit Hospitals and Public Ambulance Services)</b>	\$17,667*	\$17,000*
<b>FBT Rebate Capping Threshold</b>	\$31,177*	\$30,000*
<b>FBT Rebate Rate</b>	49%	47%

\*salary packaged meal entertainment and entertainment facility leasing expense benefits capped at \$5,000.



## Where to find more help and guidance



### Our website

Reporting, lodging and paying:

- > [Fringe benefits tax - return lodgement and payment](#) (QC 43875)
- > Visit [www.ato.gov.au/fbt](http://www.ato.gov.au/fbt) - primary source of all FBT information
- > [Fringe benefits tax – a guide for employers](#)



### Rates, calculators & tools

- > [Fringe benefits tax - rates and thresholds](#) (QC 18846)
- > [Fringe benefits tax - car calculator](#) (QC 17212)
- > [Not-for-profit FBT calculator](#) (QC 17238)



By phone – Business help line 13 28 66

**THE END**