

client alert | fbt return action checklist

March 2014

ATO compliance activities

	Yes	No
Are you aware of the ATO's compliance activities concerning FBT and employer obligations? <i>The ATO says it will focus on employers that fail to recognise they have FBT obligations, paying particular attention to those that do not lodge FBT returns. Recent compliance activity targeting car fringe benefits revealed that in many cases where there was an FBT adjustment, employers had simply failed to recognise and report their FBT obligations. The ATO says it is increasing its efforts to identify employers that may have an FBT obligation, including by using third-party information to identify those operating outside the system.</i>		

Gross-up rates

	Yes	No
Are you entitled to a GST refund on the provision of the fringe benefit? <i>If yes, Type 1 gross-up rate applies: 2.0647. If no, Type 2 gross-up rate applies: 1.8692.</i>		
Are fringe benefits that are reportable on employees' pay-as-you-go (PAYG) payment summaries grossed-up using the Type 2 gross-up rate? <i>Reportable fringe benefits are grossed-up using the Type 2 rate, regardless of the gross-up rate used in calculating the FBT payable on a benefit.</i>		

Types of benefits

	Yes	No
Car fringe benefits		
Was a vehicle made available to an employee (or an employee's associate) for private use where the vehicle is owned or leased by you, an associate of yours or a third party pursuant to an agreement with you? <i>If yes, a car fringe benefit may arise.</i>		
Was the vehicle designed to carry less than one tonne or fewer than nine passengers? <i>If yes, a car fringe benefit may arise. If no, the fringe benefit may be a residual benefit.</i>		
Was the vehicle provided a taxi, panel van, utility truck or non-passenger road vehicle designed to carry a load of less than one tonne? <i>If yes, an exemption from FBT may apply, if the private use is limited to: travel between home and work; travel incidental to travel in the course of performing employment-related travel; or non-work-related use that is minor, infrequent and irregular.</i>		
Did the employee contribute to the running costs of the vehicle? <i>The value of the benefit is reduced by the employee's contribution if appropriate evidentiary documents have been maintained.</i>		
Has an election been made to use either the statutory formula method or the operating costs method? <i>The statutory formula method must be used unless an election has been made to use the operating costs method.</i>		

	Yes	No
Has the valuation method been switched from the previous year? <i>If the statutory formula method was used in the previous year and the operating costs method has been elected in this current year, has a logbook been maintained?</i>		
Statutory formula method		
Have you identified car benefits provided after 7:30pm AEST on 10 May 2011 that will be subject to the flat 20% rate? Transitional provisions may need to be flagged. <i>For those using the statutory formula method, there will be a gradual phasing-in to move all cars to the one statutory flat rate of 20%: see "Car fringe benefits statutory formula rates" on page 5.</i>		
Were any non-business accessories (eg window tinting and rust-proofing) fitted to the vehicle during the FBT year? <i>If yes, the base value of the car is increased by the (GST-inclusive) cost price of the accessories.</i>		
How long has the vehicle been owned? <i>If owned for more than four years, the cost base of the vehicle is reduced by one-third. However, this reduction does not apply to non-business accessories fitted after the acquisition of the vehicle.</i>		
Were there any days during the FBT year when the vehicle was unavailable for private use? <i>The taxable value of the car benefit is reduced by the number of days during the FBT year in which the vehicle was not used or available for private use by the employee (or the employee's associate).</i>		
Operating costs method		
Was the vehicle acquired during the FBT year? <i>If yes, has a log book been kept for a minimum continuous period of 12 weeks?</i>		
What were the opening and closing odometer readings for the vehicle? <i>The readings must be recorded to enable total kilometres travelled for the year to be calculated.</i>		
Have you made a reasonable estimate of the business kilometres travelled and the business use percentage? <i>This must be in writing, which is normally evident by the maintaining of a log book.</i>		
Was the vehicle replaced during the FBT year? <i>If the vehicle was replaced, the previously established business percentage may be transferred to the replacement vehicle, provided the percentage had not changed.</i>		
What is the written-down value of the vehicle as at 1 April 2013? <i>The deemed depreciation and deemed interest is calculated based on the written-down value of the vehicle as at 1 April 2013.</i>		
Have you determined the total operating costs of the vehicle for the FBT year? <i>Deemed depreciation and deemed interest must also be included in the operating costs of the vehicle.</i>		
Car parking fringe benefits		
Does your business meet the requirements to be classified as a small business entity (SBE) for income tax purposes? <i>An exemption from car parking fringe benefits may arise if your business is an SBE.</i>		

	Yes	No
<p>Did you meet the costs, or part thereof, of the car parking expenses of an employee, where the car being parked is designed to carry a load of less than one tonne or fewer than nine passengers and the following conditions are present:</p> <ul style="list-style-type: none"> the car is parked on the business premises; the car is used by the employee to travel between home and work and is parked at or in the vicinity of employment; the car is parked for periods totalling more than four hours between 7:00am and 7:00pm; and a commercial car parking station is located within one kilometre of the premises where the car is parked and the operator of the parking station charges more than \$8.03 for all-day parking? <p><i>A car parking benefit potentially arises if the answer is yes.</i></p>		
<p>Has an election been made for calculating the number of car parking benefits provided: actual usage records method, statutory formula method, or 12-week register method?</p> <p><i>If no election is made, the actual usage records method must be used.</i></p>		
<p>Has an election been made for calculating the value of car parking benefits provided: commercial parking station method, market value basis, or average cost method?</p> <p><i>The commercial parking station method will automatically apply if no election has been made.</i></p>		
Living-away-from-home allowances		
<p>Have you identified employees who are affected by the tax rule changes concerning living-away-from-home (LAFH) allowances and benefits, which apply from 1 October 2012?</p> <p><i>The treatment of LAFH allowances and benefits has been significantly overhauled, narrowing the scope for eligibility. Among other things, there is an increased requirement to ensure LAFH payments are properly tracked, categorised and substantiated.</i></p>		
Meal entertainment fringe benefits		
<p>Has an election been made to use either the 50/50 split method or the 12-week register method?</p> <p><i>If no election is made, the taxable value is based on actual expenditure incurred.</i></p>		
<p>If using the 12-week register method, is the register still valid?</p> <p><i>A register is only valid for the FBT year in which the register period ends and the next four FBT years, provided that the total GST-inclusive entertainment costs do not vary by more than 20% between each FBT year.</i></p>		
<p>Did the employee (or their associate) contribute to the provision of the benefit?</p> <p><i>The taxable value of the benefit is reduced by any contributions.</i></p>		
Loan fringe benefits		
<p>Was a loan made to an employee (or their associate) during the FBT year?</p> <p><i>A fringe benefit may potentially exist.</i></p>		
<p>Was the interest rate charged on the loan lower than the notional FBT interest rate (6.45%)?</p> <p><i>The taxable value of the benefit is the amount by which the notional interest rate calculated on the loan for the year exceeds the amount of interest that has actually accrued on the loan during the year.</i></p>		
<p>Was the interest on the loan paid at least every six months?</p> <p><i>If interest is not paid at least every six months, a new loan equivalent to the deferred interest component will arise.</i></p>		
<p>Did the employee use the loan for income-producing purposes, which means they would therefore be entitled to a deduction (in their personal tax return) in respect of the interest incurred?</p> <p><i>The taxable value of the benefit is reduced by the amount to which the employee would be entitled to a deduction, provided a declaration has been given setting out particulars of the use to which the loan was put.</i></p>		

	Yes	No
In-house fringe benefits		
<p>Were any benefits that are similar or identical to those provided to your customers or clients provided to an employee (or an associate of an employee)?</p> <p><i>If yes, the first \$1,000 of the aggregate of the taxable values of in-house fringe benefits (ie in-house expense payments and in-house property and in-house residual fringe benefits) provided to the employee during the year is exempt from FBT. However, the \$1,000 reduction will not apply to an in-house benefit provided on or after 22 October 2012 under a salary-packaging arrangement (subject to transitional provisions for eligible pre-existing agreements).</i></p>		
Property fringe benefits		
<p>Was any property provided (free or at a discount) in respect of an employee's employment?</p> <p><i>Property includes all tangible and intangible property. Examples of property are goods, shares and real property.</i></p>		
<p>Have employer-provided property (in-house property fringe benefits) and those provided from other sources (external property fringe benefits) been identified?</p> <p><i>The taxable values for the former and latter are calculated differently.</i></p>		
<p>If the benefit is an in-house property fringe benefit, has the \$1,000 exemption for "in house benefits" been considered?</p> <p><i>The taxable value of in-house property fringe benefits may qualify for the general exemption of up to \$1,000 for "in-house" benefits. However, the \$1,000 reduction will not apply to an in-house benefit provided on or after 22 October 2012 under a salary-packaging arrangement (subject to transitional provisions for eligible pre-existing agreements).</i></p>		
<p>Have in-house property fringe benefits accessed by way of salary-packaging arrangements been identified?</p> <p><i>If an in-house property fringe benefit is provided on or after 22 October 2012 under a salary-packaging arrangement, the taxable value of the benefit is an amount equal to the notional value of the benefit at the time it is provided. The notional value is the amount that the employee could reasonably be expected to pay for the benefit under an arm's length arrangement. If the salary-packaging arrangement was in place before 22 October 2012, this rule will only apply to benefits provided after the earlier of 31 March 2014 and the first material variation (if any) to the arrangement.</i></p>		
<p>If the benefit was an external property fringe benefit, were you dealing with the external party at arm's length?</p> <p><i>Where the dealing was not at arm's length, the taxable value is the amount the employee could reasonably be expected to pay to acquire the property under an arm's length transaction, reduced by any employee contribution. For an arm's length transaction, the taxable value of the benefit is the expenditure incurred for the property reduced by any employee contribution.</i></p>		
<p>Would the employee have been entitled to a deduction (in their personal tax return) if they had incurred expenditure equal to the taxable value of the benefit after reduction for any consideration paid by the employee (the "otherwise deductible rule")?</p> <p><i>The taxable value of the benefit can be further reduced by the amount that the employee could have deducted. This further reduction applies to both in-house property fringe benefits and external property fringe benefits.</i></p>		
<p>Is an employee declaration required?</p> <p><i>The otherwise deductible rule requires an employee declaration setting out details sufficient to establish the connection between the property provided and the income-producing activities of the employee. However, if the property was provided exclusively in the course of the employee's employment, a declaration is not required.</i></p>		
Expense payment fringe benefits		
<p>Did you pay or reimburse an employee (or their associate) for any expenses incurred by them?</p> <p><i>Potentially, an expense payment fringe benefit arises. Examples include electricity, gas and telephone expenses, school fees, property rates, mortgage payments and road tolls.</i></p>		

	Yes	No
Did the employee contribute towards the provision of the benefit? <i>The taxable value of the benefit (which is the amount of the expenditure paid or reimbursed) is reduced by the amount of the employee's contribution.</i>		
Would the "otherwise deductible rule" apply? <i>The taxable value of the benefit can be further reduced if the employee would have obtained a deduction in her or his tax return.</i>		
Do you have the required declarations in the approved forms?		
Work-related items		
Did you provide an employee with any of the following work-related items: a portable electronic device (eg a laptop, mobile or GPS navigation device); an item of computer software; an item of protective clothing; a briefcase; or a tool of trade? <i>If yes, an exemption from FBT may be available. Note there are different rules for items provided before 7:30pm AEST on 13 May 2008.</i>		
Were the items provided primarily for use in the employee's employment? <i>If yes, an exemption from FBT applies.</i>		
Did you provide the employee more than one of each of the above listed items (except where the item is a replacement item)? <i>If yes and the additional item has substantially identical functions to the original item (and is not a replacement item), the additional item will not be exempt from FBT. Note the ATO accepts that an iPad does not have substantially identical functions to a laptop computer.</i>		
Minor, infrequent and irregular benefits		
Were there any infrequent and irregular benefits with a notional taxable value of less than \$300 per benefit being provided? <i>A benefit with a notional taxable value of less than \$300 does not automatically attract an exemption from FBT unless it is infrequent and irregular.</i>		

Car fringe benefits statutory formula rates

Below are the statutory car rates for car fringe benefits provided prior to 7:30pm AEST on 10 May 2011, or where you have a pre-existing commitment¹ in place to provide the car after this time:

Kilometres travelled	Statutory rate
Less than 15,000	26%
15,000–24,999	20%
25,000–40,000	11%
Above 40,000	7%

- (1) For those with pre-existing commitments (contracts entered into prior to 10 May 2011), the old statutory rates will continue to apply. The commitments need to be financially binding on one or more of the parties. However, where there is a change to pre-existing commitments, the new rates will apply from the start of the following FBT year. Changes to pre-existing commitments include refinancing a car and altering the duration of an existing contract. Changing employers will cause the new rates to apply immediately for the new employer.

Statutory rates for "new contracts" entered into after 7:30pm AEST on 10 May 2011 will be phased in as follows:

Kilometres travelled	From 10 May 2011	From 1 April 2012	From 1 April 2013	From 1 April 2014
Less than 15,000	20%	20%	20%	20%
15,000–24,999	20%	20%	20%	20%
25,000–40,000	14%	17%	20%	20%
Above 40,000	10%	13%	17%	20%

FBT rates and thresholds

	FBT year ending 31 March 2014	FBT year ending 31 March 2013
FBT tax rate	46.5%	46.5%
Type 1 gross-up rate (ie entitled to a GST credit for the provision of a benefit)	2.0647	2.0647
Type 2 gross-up rate (ie not entitled to a GST credit for the provision of a benefit)	1.8692	1.8692
Reportable fringe benefits threshold (ie a total gross-up value exceeding \$3,738) ²	\$2,000 ¹	\$2,000 ¹
Car parking threshold	\$8.03	\$7.83
Cents per kilometres for motor vehicle (where the benefit is a residual benefit): <div> Engine capacity 0–2,500cc Over 2,500cc Motorcycles </div>	Rate per kilometre 49 cents 59 cents 15 cents	Rate per kilometre 48 cents 57 cents 14 cents
Deemed depreciation rate (operating cost method) for car fringe benefits: <div> Date of car purchase On or after 10 May 2006 From 1 July 2002 to 9 May 2006 Up to and including 30 June 2002 </div>	Depreciation rate 25% 18.75% 22.5%	Depreciation rate 25% 18.75% 22.5%
Benchmark interest rate ³	6.45%	7.40%
Minor and infrequent benefits threshold ⁴	\$300	\$300
Record keeping exemption threshold	\$7,779	\$7,642

- (1) Threshold is based on the total taxable value of fringe benefits provided to an employee.
- (2) The actual reportable fringe benefits amount shown on a PAYG summary is always grossed-up using the Type 2 gross-up rate.
- (3) The benchmark interest rate is used to calculate the taxable value of a loan benefit and the deemed interest of a car fringe benefit where an employer chooses to use the operating cost method.
- (4) Threshold is based on the taxable value of a benefit and applies to each benefit provided during the FBT year.