

# Important year-end updates for Fringe Benefits Tax

29 March 2018

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## ***In brief***

With the 2017-18 Fringe Benefits Tax (FBT) year end approaching on 31 March 2018, now is the time to take note of the updates and changes that have occurred, or have been proposed, throughout the year.

From 1 April 2017, a new FBT rate of 47 per cent will apply. This also means that the type 1 gross-up rate changed to 2.0802, and the type 2 gross-up rate changed to 1.8868.

Throughout the 2018 FBT year, the Australian Taxation Office (ATO) has been active in seeking consultation from the community on many FBT topics.

This TaxTalk Alert outlines some of the key issues that employers need to pay particular attention to this FBT season.

## ***In detail***

### ***Changes to the interpretation of deductible travel expenses and living away from home***

On 28 June 2017, the ATO released Draft Taxation Ruling [TR 2017/D6 Income tax and fringe benefits tax: when are deductions allowed for employee' travel expenses?](#) (TR 2017/D6). This draft ruling provides the ATO's updated interpretation of when an employee's travel expenses are deductible for income tax and FBT purposes. TR 2017/D6 provides a range of examples applicable to modern day travel that illustrate how to determine whether travel expenses for an employee is otherwise deductible, taking into account the ATO's view of the impact of the decision in *John Holland Group Pty Ltd v FCT [2014] FCA 1332*.

TR 2017/D6 also updated the ATO's interpretation of when an employee is living away from home (LAFH), withdrawing the previous guidance contained in Miscellaneous Tax Ruling 2030.

Whilst TR 2017/D6 is currently issued in draft, the views of the ATO expressed in the draft ruling are expected to apply for the 2018 FBT year. Accordingly, employers should consider if the views in the ruling will impact the FBT treatment of any travel expenses and LAFH allowances that were provided in the 2017-18 FBT year.

For more information about travel expenses and LAFH, please see our [TaxTalk Alert](#), which was published on 28 June 2017.

### ***Practical compliance guideline for exempt cars***

On 19 December 2017, the ATO released draft Practical Compliance Guideline [PCG 2017/D14 Exempt car and residual benefits: compliance approach to determining private use of vehicles](#) (PCG 2017/D14).

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This draft PCG provides an optional practical compliance approach that employers can elect to adopt to determine if private travel by employees in exempt vehicles, such as utilities, is eligible for an FBT exemption.

This draft guideline provides three key measurable criteria in determining whether the private use of an exempt vehicle is considered minor, infrequent and irregular. Employers that apply this approach are eligible for reduced record keeping requirements.

Although the PCG does not eliminate record keeping entirely, it may be useful for employers that provide exempt vehicles to employees who may undertake limited private travel, particularly in metropolitan areas. Employers should consider their eligibility to use the practical compliance approach for the 2017-18 FBT return, or look to implement any policy changes in order to apply the proposed PCG for the upcoming 2018-19 FBT year.

For more detail on the draft ruling, please see our [TaxTalk Alert](#) of 20 December 2017.

### ***FBT definition of a taxi***

In September 2017, the ATO sought comment on [Tax Discussion Paper 2017/2 Fringe Benefits Tax – Definition of Taxi](#) (TDP 2017/2).

TDP 2017/2 advised that the ATO is seeking to review the definition of a ‘taxi’ for FBT purposes following the decision of the Federal Court in *Uber B.V. v Commissioner of Taxation [2017] FCA 110*, and the rise in popularity of ride sourcing services as an alternative to traditional taxi services.

The discussion paper outlines the ATO’s proposed change of interpretation in relation to the definition of ‘taxi’ contained within the *Fringe Benefits Tax Assessment Act 1986*, and its application to the s58Z FBT exemption for taxi travel undertaken to, or from, work, or due to illness.

While the definition of a ‘taxi’ may be expanded in future years, employers that provide or reimburse ridesharing expenses of employees should consider whether any alternate exemptions can be applied to these benefits in the 2017-18 FBT year.

### ***Car parking***

Since 2015, the ATO has flagged that it is rewriting [Taxation Ruling TR 96/26](#), which deals with car parking benefits, to provide greater clarity to taxpayers following the decision of the Full Federal Court in *Commissioner of Taxation v Qantas Airways Ltd [2014] FCAFC 168*.

The ATO has advised the new FBT ruling on car parking is currently under development, and for the 2017-18 FBT year, taxpayers should continue to rely on TR 96/26 in determining if a car parking fringe benefit will arise.

### ***The takeaway***

FBT year end can be a stressful period for organisations given the time intensive exercise of compiling FBT information from different data sources. Technological solutions have allowed many employers to streamline the FBT preparation process resulting in significant time savings. The use of analytics is also becoming more commonplace in allowing a move away from legislative safe harbours in order to reduce FBT costs.

The release of new guidance from the ATO throughout the FBT year is also cause to consider whether company policies in relation to employee benefits are still current, and to ensure any new processes are established for the upcoming 2018-19 FBT year.

The 2017-18 FBT return is due to be lodged on 21 May 2018. Payment of the balance of any FBT liability (if required) is also required by this date. However, for organisations that lodge through PwC’s electronic

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lodgement capability, an extension of time until 25 June 2018 is available, with the balance of any FBT liability due on 28 May 2018.

### ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact:

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