

Practice Update

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AUGUST 2013

Massive change to treatment of FBT on car fringe benefits

Editor: The government has decided to bring forward the commencement of the carbon emissions trading scheme to 1 July 2014, and as part of this they have announced other changes, including to the FBT treatment of car fringe benefits.

Of course, whether or not these changes actually become law (despite the announced start dates) depends on the government passing the legislation, which depends on them getting re-elected. . .

The government intends to ensure the FBT "exemption" for cars is targeted to actual business use, rather than including personal use, by removing the statutory formula method for both salary-sacrificed and employer-provided cars for new contracts entered into after 16 July 2013, with effect from 1 April 2014.

All car fringe benefits for *new* leases (i.e., those entered into after 16 July 2013) will be calculated using the operating cost (i.e., log book) method from 1 April 2014, which is based on the actual business use of the car.

Existing contracts materially varied after 16 July 2013 will also fall under the new arrangements, but existing contracts that are not varied will continue to have access to the existing statutory rate throughout the contract.

This reform will not affect:

- employees and sole traders who claim deductions for work-related travel expenses when they use their own car for work reasons;

- the existing exempt car benefit concessions that apply to certain uses of taxis, panel vans, utes and other non-car road vehicles; and
- employers who provide a work car to employees for occasional private use (for example, weekend travel) and use the operating cost method.

New reporting requirements for BCI taxpayers

The ATO is reminding contractors in the building and construction industry (or 'BCI') to take extra care with their returns this year.

Also, businesses in the building and construction industry are now required to report to the ATO the total amount they paid to each contractor for any building and construction services in 2012/13 on a 'Taxable payments annual report'.

Taxable payments annual reports are ordinarily required to be lodged by 21 July, but the ATO has provided a concession for taxpayers lodging via a tax agent – tax agents have until 25 August to submit the report (for this year only).

Editor: If you are in the BCI and have paid contractors, we can help you work out your lodgment obligations.

Since this new reporting regime makes it easier for the ATO to cross check the returns of contractors in the industry (whether they work for a large building company or in a smaller domestic operation), it is important that they include all income in their tax returns.

ATO's 2013 Compliance Program

As usual, the ATO has released its annual Compliance Program, and following are some of the main 'highlights' that will attract their attention in the coming year, including:

- High **work-related expenses claims**, particularly those made by:
 - building and construction labourers, construction supervisors and project managers; and
 - sales and marketing managers;
- **Wealthy individuals** and people who may be using secrecy jurisdictions (i.e., tax havens) to avoid paying tax;
- **Employers** who intentionally try to avoid their tax and super obligations by **improperly treating workers as contractors** rather than employees;
- Small businesses that **over claim concessions**, attempt to hide income and operate in the **cash economy**, and **claim CGT concessions** they are not entitled to;
- **Businesses with outstanding returns**, particularly trusts, partnerships and companies and entities with privately owned groups;
- **Fraudulent phoenix activity**, particularly by property developers; and
- **SMSFs** that misuse the concessional tax environment deliberately **or unintentionally**.

The ATO has also advised that they investigate **every time** an employee tells them that their employer has not paid their superannuation guarantee entitlement. The ATO will also specifically audit employers in the cafes and restaurants, carpentry services, and real estate services industries, due to these industries presenting a higher risk of employers not complying with their superannuation guarantee obligations.

In addition, more than 640 million transactions are reported to the ATO annually from sources such as banks, share registries, employers, merchants, states and territories and other government departments, and the ATO uses this information to detect people trying to avoid their tax and superannuation obligations.

CGT: Keep the right records

The ATO has reminded taxpayers that they should keep all records of purchases or acquisitions of assets that may be subject to CGT, and records relating to their sale or disposal, including details of the nature of the act, transaction, event or circumstance, how it resulted in a capital gain or loss, the date it occurred, and the parties involved.

The records used to work out the amount of the capital gain or capital loss should also be kept, which may include:

- receipts of a purchase or transfer;
- details of interest on money borrowed relating to the asset;
- records of agent, accountant, legal and advertising costs;
- receipts for insurance costs;
- receipts for rates, land tax and stamp duty;
- any market valuations;
- receipts for the cost of maintenance, repairs or modifications;
- accounts showing brokerage on shares; and
- records from the previous owner – for example, for inherited assets.

Car depreciation limit for 2013/14

The ATO has advised that the car depreciation limit for the 2013/14 financial year is \$57,466 (unchanged from the 2012/13 year).

Reasonable Overtime Meal Allowance Amounts – 2013/14

The reasonable amount for overtime meal allowance expenses, where an allowance is paid under an award, order, determination, industrial agreement or a Commonwealth, State or Territory law, is \$27.70 per meal for 2013/14.

An overtime meal allowance (being an allowance paid for food and drink in connection with overtime worked) which does not exceed the reasonable amount does not need to be shown on the payment summary, and the employee may not need to show it on their tax return if it has been fully spent on deductible expenses.

Please Note: Many of the comments in this publication are general in nature and anyone intending to apply the information to practical circumstances should seek professional advice to independently verify their interpretation and the information's applicability to their particular circumstances.