

## ATO spells out its big FBT concerns

March 31 and the end of the FBT year is around the corner, so to help taxpayers get things right, the ATO has made public the fringe benefits tax issues that attract its attention. Broadly (not just in relation to FBT), the ATO says the following behaviours and characteristics tend to raise a red flag:

- tax or economic performance not comparable to similar businesses
- low transparency of tax affairs
- large, one-off or unusual transactions, including transfer or shifting of wealth
- tax outcomes inconsistent with the intent of tax law
- lifestyle not supported by after-tax income
- accessing business assets for tax-free private use
- poor governance and risk-management systems.

But focusing on FBT in particular, the ATO says there are specific behaviours and characteristics that attract its attention, especially in relation to certain areas of the FBT rules. These include issues involving aspects of the living-away-from-home allowance (LAFHA), car parking, employer-provided vehicles and more. The areas the ATO has stated it will be focusing on with regard to FBT are listed below.

### Living-away-from-home allowance

Living away from home allowance (LAFHA) is an allowance an employer pays to employees to compensate for additional expenses incurred and any disadvantages suffered because the employee's duties of employment require them to live away from their normal residence.

The taxable value of the LAFHA benefit may be reduced by the exempt accommodation and food components of the allowance.

Common errors that the ATO says attracts its attention include:

- claiming reductions for ineligible employees
- failing to obtain required declarations from employees
- claiming a reduction in the taxable value of the LAFHA benefit for exempt accommodation and food components in invalid circumstances
- failing to substantiate expenses relating to accommodation and, where required, food or drink.

### Car parking valuations

The ATO will focus on the validity of valuations provided in relation to car parking fringe benefits. The common errors that attract its 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.

### Provided motor vehicles

Another area of focus will be on situations where an employer-provided motor vehicle is used, or available, for private travel of employees. The ATO says this constitutes a fringe benefit and needs to be declared on the FBT return (if lodgment is required). There are circumstances where this may be exempt, such as where the business is tax exempt or the private use of the vehicle was exempt. There are special rules around these circumstances (ask us for more details).

The ATO has found that some employers fail to identify or report these fringe benefits or incorrectly apply exemption provisions.

### Employee contributions

A red flag is also raised in situations where employee contributions that have been paid (which reduces the FBT liability of the employer, such as where a car is supplied but the employee contributes to its maintenance).

The ATO is on the lookout for these amounts being declared on both the fringe benefits tax return (if lodgment is required) and the employer's income tax return. This helps to ensure that the employer does not:

- fail to report these contributions as income on their income tax return
- incorrectly overstate employee contributions on their fringe benefits tax return to reduce the taxable value of benefits provided.

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