



5 June 2020

The Hon Josh Frydenberg MP
Treasurer
House of Representatives Parliament House
PO Box 6022
CANBERRA ACT 2600

By email: josh.frydenberg.mp@aph.gov.au

Cc: Ms Maryanne Mrakovcic, Deputy Secretary – Revenue Group, The Treasury

Dear Treasurer

COVID-19 - FBT and the Cost of Compliance

Over the last few months, the Corporate Tax Association (CTA) has been heavily involved with assisting its membership of 130 of the largest corporates in Australia navigate some of the many tax technical and practical issues associated with COVID-19. To date 47 separate issues have been identified and resolved with the ATO since late March. While the issues were varied in terms of subject matter and impact, the most common concern arising for large corporates was Fringe Benefits Tax (FBT), with 11 of the 47 issues (or 23%) being FBT related¹. Each one of those 11 issues highlighted the complexity, pervasiveness and compliance costs to taxpayers and the ATO associated with what has long been regarded as the most inefficient and costly of all federal corporate taxes.

Since its introduction in 1986, the FBT system has become progressively more complex and inefficient in terms of compliance, with inconsistent outcomes and exemptions and thus to some degree losing its role as an integrity measure to tax non-cash benefits provided to employees or associates. For many large businesses, FBT requires more complex processes, form filling and documentation than does income tax. In 2019, FBT raised just \$3.7 billion out of a total of close to \$450 billion in total federal taxes collected. This is less than 1% of all tax revenue collected.

None of these issues are new to this government, who in February 2018 wrote to the Board of Taxation requesting that the Board conduct a comprehensive review of the compliance costs associated with obligations under FBT legislation. The CTA and its members contributed to that review, which garnered an unprecedented level of corporate interest and engagement. One of the many CTA members that contributed FBT data to the Board's review noted that at the time of preparing for the Board's review, it was taking the corporate tax team 70 times longer to pay \$1 of FBT than it did for \$1 of GST.

¹ A list of the FBT issues raised with the CTA during the onset of the COVID-19 crisis is provided at Appendix 1

The Board's FBT report and its recommendations around simplification, compliance cost savings and red tape reduction are ones that must be aired in the context of the government's recent commitment to reducing red tape. On this point, it is worth noting the following observation made by the Board, shortly before the FBT report was finalised and submitted to government in October 2019:

"This report will provide an invaluable tool for policy-makers seeking to reduce red tape and simplify the operation of the FBT law, as well as help shape the future direction of the FBT system.²"

While the list of possible reform options to the tax system is long and varied, there is no other federal tax that comes close to being as significant a drag on resources than FBT, and for such little return in terms of revenue. The CTA and its members would welcome any opportunity to discuss reform options, with the view to bringing FBT back to its policy intent and relieving corporates from what are unwarranted levels of compliance cost.

Should you have any questions, please feel free to contact me directly.

Yours sincerely



Michelle de Niese
Executive Director
Corporate Tax Association

² Board of Tax CEO Update June 2019

COVID-19 related FBT issues raised and resolved

1	FBT	The potential for medical based screening supplied by employers not at employer premises may not pass the minor benefits exemption or work-related medical screening exemptions and thus be subject to FBT.
2	FBT	Staff who have their usual place of residence offshore are employed on a FIFO basis. There is a risk where the employee cannot return home, any employer provided accommodation may be subject to FBT.
3	FBT	FBT return lodgement deferral.
4	FBT	FIFO/LAFHA treatment for accommodation, travel provided to employees and family in remote areas in Australia who cant travel home due to State border lockdowns
5	FBT	FBT on staff counselling re COVID-19
6	FBT	Treatment of log books for 2021 FBT year (being a COVID year) and whether 2020 log book data can be used rather than new log books prepared to reduce the cost of compliance even if the FBT bill is larger..
7	FBT	Can an estimate be used on the payment summary, followed up with an amended payment summary when FBT returns are finalized without the payment summary being a "false and misleading" statement?
8	FBT	Whilst there is an ability to defer FBT lodgment, deferral doesn't apply to the top up payment/refund by the due date. Is it possible for a payment to be made on the due date based on a reasonable estimate or possibly, as an alternative, ensuring this year's FBT bill is at least equal to last years, with a top up payment/refund when the return is lodged, without penalty and interest applying?
9	FBT	Use of estimates on payment summaries for Reportable Fringe Benefits Amount on payment summaries for 2020.
10	FBT	Non salary packaged cars (such as work vehicles) garaged at home when staff working from home. Can this be considered garaged at a workplace
11	FBT	Use of 2020 log books in 2021 and beyond. 2020 log books are pre-COVID and may not be representative of 2021 COVID FBT year. Can taxpayers use 2020 log books for 2021 and beyond or do they need to reestimate the "reasonableness" of the log book data.