# *TR 2001/2 - Fringe benefits tax: the operation of the new fringe benefits tax gross-up formula to apply from 1 April 2000*

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Generated on: 27 November 2026, 04:59:20 AM

# Taxation Ruling

Fringe benefits tax: the operation of the new fringe benefits tax gross-up formula to apply from 1 April 2000

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***Preamble***

*The number, subject heading, **Class of person/arrangement, Date of effect** and **Ruling** parts of this document are a 'public ruling' for the purposes of Part IVAAA of the **Taxation Administration Act 1953** and are legally binding on the Commissioner. The remainder of the document is administratively binding on the Commissioner. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

*[**Note**: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]*

## What this Ruling is about

### Class of person/arrangement

1. This Ruling applies to employers that provide **fringe benefits**[1] and have to determine their fringe benefits tax liability.

2. The purpose of this Ruling is to explain the operation of the new fringe benefits tax (FBT) gross-up formula that applies from 1 April 2000. The new gross-up formula was introduced, under the *A New Tax System (Fringe Benefits) Act 2000*, to take into account the effect of **input tax credits**[2] being able to be claimed, where applicable, in respect of goods and services tax (GST) paid on some fringe benefits.

3. Refer also to Goods and Services Tax Ruling GSTR 2001/3 *Goods and services tax: GST and how it applies to supplies of fringe benefits*.

4. Certain terms used in this Ruling are legislatively defined terms or whose meaning is explained in the Ruling. These terms, when first mentioned in the body of the Ruling, appear in **bold** type.

5. Unless otherwise stated, all legislative references in this Ruling are to the *Fringe Benefits Tax Assessment Act 1986 (FBTAA)*.

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[1] Fringe benefit is defined in subsection 136(1).

[2] Input tax credit is defined in section 195-1 of the GST Act to mean an entitlement arising under sections 11-20 or 15-5 of the GST Act.

5A. The numbers and examples which use the FBT rate of 48.5% throughout this Ruling are relevant for the FBT years from 1 April 2000 to 31 March 2006. The changes with effect from 1 April 2006, are as follows:

- FBT rate changed from 48.5% to 46.5%;
- higher gross-up rate changes from 2.1292 to 2.0647; and
- lower gross-up rate changes from 1.9417 to 1.8692.

5B. The examples that appear in this Ruling for both type 1 and type 2 benefits have been calculated on the former gross-up rates as listed above. This will necessitate substituting those rates with the new gross-up rates when establishing the fringe benefits tax payable from 1 April 2006.

# Ruling

**Fringe Benefits Taxable Amount From 1 April 2000**

6. From the 2000-2001 FBT year an employer will calculate the employer's fringe benefits taxable amount by classifying fringe benefits into 2 types of aggregate fringe benefits amounts, grouped according to whether there was an entitlement to GST input tax credits.

7. The first type is an 'employer's type 1 aggregate fringe benefits amount', being those fringe benefits where there is an entitlement to a GST input tax credit to the provider. The second type is the 'employer's type 2 aggregate fringe benefits amount' being those fringe benefits where there are no entitlements to GST input tax credits to the provider.

8. The employer's type 1 aggregate fringe benefits amount is grossed-up using the new (higher) gross-up formula. The employer's type 2 aggregate fringe benefits amount is grossed-up using the former (lower) gross-up formula.

9. Employers that are **public benevolent institutions**[3] or are certain non-profit, non-government employers, have to calculate the employer's type 1 and type 2 'individual base non-exempt amounts' and 'individual base non-rebatable amounts' respectively.

[3] Public benevolent institution is an organisation that has as its principal objects the relief of poverty, sickness, suffering, distress, misfortune, destitution, or helplessness and its activities are carried on without the purpose of private gain for particular persons.

10. Fringe benefits tax payable will be the fringe benefits taxable amount multiplied by the fringe benefits tax rate (48.5%). From 1 April 2006, the FBT rate will be 46.5%.

### Excluded Fringe Benefits and the Employer's Aggregate Fringe Benefits Amount

11. **Excluded fringe benefits**[4] are only 'excluded' from being reported on an employee's payment summary. They are not 'excluded' from being part of the **employer's aggregate fringe benefits amount**[5] on which the employer's FBT liability is based.

### Employer's Type 1 Aggregate Fringe Benefits Amount

12. The 'type 1 aggregate fringe benefits amount' represents the total taxable values of fringe benefits (including any excluded fringe benefits) that are **GST-creditable benefits** under section 149A (see paragraph 35 for the meaning of a GST-creditable benefit).

13. A GST-creditable benefit arises in either of the situations where:

- The person, or another member of the same GST group, who provided the fringe benefit (or excluded fringe benefit) is entitled to an input tax credit for that benefit by the operation of Division 111 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
- The fringe benefit (or excluded fringe benefit), is a '**thing**[6]', that was acquired or imported by the person, or another member of the same GST group, and either that person or that member of the same GST group is entitled to a GST input tax credit because of that acquisition or importation of the thing.

14. The classification of a fringe benefit (or excluded fringe benefit) as a type 1 benefit does not depend on the extent of the GST input tax credit entitlement to the provider. Nor does the classification as a type 1 benefit depend on whether the input tax credit is subsequently claimed. The test is whether there is *any* entitlement to a GST input tax credit.

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[4] Subsection 5E(3) details which benefits are excluded fringe benefits.
[5] The methodology to work out an employer's aggregate fringe benefits amount is set out in section 5C.
[6] *Thing* is defined in subsection 195-1 of the GST Act as meaning anything that can be supplied or imported.

### Higher Gross-up Formula for Type 1 Benefits

15. Type 1 benefits are grossed-up to a tax inclusive value by applying the higher FBT gross-up formula. The higher FBT gross-up formula results in a gross-up rate of 2.1292 where the FBT rate is 48.5% and the GST rate is 10%. From 1 April 2006 when the FBT rate is 46.5%, this will result in a type 1 gross-up rate of 2.0647.

### Employer's Type 2 Aggregate Fringe Benefits Amount

16. The type 2 aggregate fringe benefits amount represents the total taxable values of all other fringe benefits (or excluded fringe benefits) provided to employees, or their associates, that do not fall within the classification of type 1 fringe benefits. A type 2 benefit is one where the provider was not entitled to a GST input tax credit.

### *GST-free* and Input Taxed Benefits

17. Fringe benefits (including excluded fringe benefits) that are either wholly ***GST-free***[7] or **input taxed**[8] cannot be classified as a type 1 benefit and consequently must be a type 2 benefit.

### Other Benefits for which there is no entitlement to an Input Tax Credit

18. Some fringe benefits may be supplied that do not entitle the provider to GST input tax credits under the GST Act. These are fringe benefits where the acquisition does not meet the requirements for being a creditable acquisition under section 11-5 of the GST Act. Such benefits cannot be classified as type 1 benefits and consequently must be type 2 benefits.

### Lower Gross-up Formula for Type 2 Benefits

19. Type 2 benefits are grossed-up using the lower FBT gross-up formula. The lower FBT gross-up formula results in a gross-up rate of 1.9417 where the FBT rate is 48.5%. From 1 April 2006 when the FBT rate is 46.5%, this will result in a type 2 gross-up rate of 1.8692.

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[7] GST-*free* supplies are set out in Division 38 of the GST Act.
[8] Input taxed supplies are set out in subsection 9-30(2) of the GST Act.

### Employer's Type 1 and Type 2 Individual Base Non-Exempt Amounts and Employer's Type 1 and Type 2 Individual Base Non-Rebatable Amounts

20. The higher gross-up provisions also apply to the calculation of fringe benefits eligible for exemption under section 57A and the amount of rebate available to certain non-profit, non-government employers under section 65J. Employers in these situations need to calculate the type 1 and type 2 **individual base non-exempt amounts**[9] for each employee using the same categorisation rules as above and subsequently applying the higher or lower gross-up formulas. The employer is required to follow essentially the same procedure for the type 1 and type 2 **individual base non-rebatable amounts**[10].

### Value of Fringe Benefits from 1 July 2000

21. The calculation of the taxable value of a fringe benefit (or excluded fringe benefit) will be the **GST-inclusive value**[11], as appropriate.

### Value of Employee Contributions from 1 July 2000

22. When calculating the taxable value of a fringe benefit the value of a **recipient's payment**[12] or a **recipients contribution**[13] will be the GST-inclusive value, as appropriate.

### Reportable Fringe Benefits Amounts

23. The higher FBT gross-up formula will not affect the calculation of an **employee's reportable fringe benefits amount**[14] for a year of income. An employer will continue to gross-up the **employee's individual fringe benefits amount**[15] using the lower gross-up formula when determining the amount to be shown on the

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[9] Subsections 5B(1H) and 5B(1J) set out respectively what is a type 1 and type 2 individual base non-exempt amount.

[10] Subsections 65J(2E) and 65J(2F) set out respectively what is a type 1 and type 2 individual base non-rebatable amount.

[11] There is no definition of 'GST-inclusive value' in the GST Act (although GST-inclusive market value' is defined in section 195-1 of the GST Act). Where the term is used in this ruling it means the value of the consideration or thing without any reduction for the amount of GST payable (if any) on the supply.

[12] Recipient's payment is defined in paragraphs 9(2)(e) and 10(3)(c) (see also paragraph 98).

[13] Recipients contribution is defined in subsection 136(1) (see also paragraph 102)

[14] Section 135P sets out the general rule for what is an employee's reportable fringe benefits amount. Section 135Q sets out the rule for what is an employee's reportable fringe benefits amount for some employees of certain institutions.

[15] Section 5E sets out what is an employee's individual fringe benefits amount.

employee's payment summary. The higher FBT gross-up formula only applies to the calculation of an employer's FBT liability.

### Income Tax and Fringe Benefits From 1 July 2000

24. Income tax deductions for the cost of the fringe benefits will be at the **GST-exclusive value**[16] where there is an entitlement to a GST input tax credit in respect of the fringe benefit. If there is no entitlement to a GST input tax credit from the provision of the fringe benefit, the income tax deduction will be the full amount paid or incurred on the relevant acquisition.

25. Where either a recipient's payment or a recipients contribution, that is consideration for a **taxable supply**[17], is added to an employer's assessable income, such payment or contribution will be added for income tax purposes at the GST-exclusive value.

26. Where the **otherwise deductible rule**[18] applies, the calculation of the taxable value of a fringe benefit is reduced by the hypothetical deduction to which the employee would have been entitled had the employee incurred the expense. In these situations, the employer takes into account the GST-inclusive value, as applicable.

## Date of effect

27. This ruling applies from 1 April 2000 onwards.

## Explanations

### Fringe Benefits Taxable Amount Prior To 1 April 2000

28. Prior to the 2000 – 2001 FBT year an employer's fringe

$$\text{Aggregate fringe benefits amount} \times \frac{1}{(1 - \text{FBT rate})}$$

benefits taxable amount was calculated using the following formula:

29. The aggregate fringe benefits amount above consisted of the sum of each employee's individual fringe benefits amounts plus the taxable values of all excluded fringe benefits.

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[16] GST-exclusive value is defined in section 195-1 GST Act.
[17] Taxable supply is defined in section 195-1 of the GST Act.
[18] See paragraph 112 for an explanation of the 'otherwise deductible rule'.

30. The former FBT gross-up formula of:

$$\frac{1}{(1 - \text{FBT rate})}$$

resulted in a lower gross-up rate of 1.9417. The FBT rate was 48.5%, being the highest marginal tax rate plus the medicare levy.

31. The amount of fringe benefits tax payable was arrived at by applying the FBT tax rate of 48.5% to the employer's fringe benefits taxable amount.

## Fringe Benefits Taxable Amount From 1 April 2000

32. Under subsection 5B(1A), an employer's fringe benefits taxable amount for the FBT year of tax 2000-2001 and later years is the sum of amounts calculated under subsections 5B(1B), 5B(1C) and, where applicable, 5B(1D).

33. The subsection 5B(1B) amount is worked out using the formula:

$$\text{Type 1 aggregate fringe benefits amount} \times \frac{\text{FBT rate}}{\text{1 - FBT rate}} + \frac{\text{GST rate}}{\text{1 + GST rate}} \times \text{FBT rate}$$

## Employer's Type 1 Aggregate Fringe Benefits Amount

34. Subsection 5C(3) contains the method statement of how to work out an employer's type 1 aggregate fringe benefits amount. Steps 1 and 3 in the method statement require the employer to identify the fringe benefits and excluded fringe benefits that are GST-creditable benefits.

35. Section 149A defines a GST creditable benefit as follows:

> (1) A benefit provided in respect of the employment of an employee is a GST-creditable benefit if either of the following is or was entitled to an input tax credit under Division 111 of the *A New Tax System (Goods and Services Tax) Act 1999* because of the provision of the benefit:
>
> (a) the person who provided the benefit;
>
> (b) a person who is or was a member of the same GST group (as defined in that Act) as the person who provided the benefit.

(2) A benefit provided in respect of the employment of an employee is also a GST-creditable benefit if:

(a) the benefit consists of:

(i) a thing (as defined in the *A New Tax System (Goods and Services Tax) Act 1999*; or

(ii) an interest in such a thing; or

(iii) a right over such a thing; or

(iv) a personal right to call for or be granted any interest in or right over such a thing; or

(v) a licence to use such a thing; or

(vi) any other contractual right exercisable over or in relation to such a thing; and

(b) the thing was acquired (within the meaning of that Act) or imported (within the meaning of that Act) and either of the following is or was entitled to an input tax credit under that Act because of the acquisition or importation:

(i) the person who provided the benefit;

(ii) a person who is or was a member of the same GST group (as defined in that Act) as the person who provided the benefit.

36. Section 149A(1) states that a GST-creditable benefit arises where there is an entitlement to an input tax credit because of Division 111 of the GST Act. Division 111 of the GST Act allows an entity to obtain input tax credits for **expense payment benefits**[19].

37. Division 111 of the GST Act potentially applies where an employee, or his/her associate[20], *incurs* an expense. This can involve the employee paying the expense but does not necessarily require the employee to pay the provider prior to reimbursement.

38. However, where an employee incurs an expense as the employer's agent, for example, in purchasing office stationery on the employer's behalf, the acquisition is made by the employer and not the employee. Hence, Division 111 does not apply. Because the

[19] An expense payment benefit in the GST Act means a fringe benefit that is a benefit of the kind referred to in section 20 of the FBTAA and includes all reimbursements and payments made on behalf of a recipient which are fringe benefits and exempt benefits.

[20] Further references to 'employee' will also include an associate of the employee where relevant.

acquisition is made by the employer there is no need for Division 111 to treat a payment as if it is consideration for an acquisition.

39. The **creditable acquisitions** requirements set out in section 11-5 of the GST Act are modified by section 111-5 of the GST Act. Division 111 of the GST Act treats payments to employees in the form of expense payment benefits as consideration for an acquisition made by the employer so that the employer is entitled to an input tax credit as if the employer had acquired the thing directly from a supplier.

40. The payment of the expense incurred by the employee can be either by way of reimbursement to the employee or by direct payment to the supplier of the goods or services to the employee.

*Example 1*

41. *Riccardo and Kylie are employees of Archimedes Ltd, a manufacturer of bathroom supplies, who is registered for GST. On 23 September 2000, Riccardo paid his golf club membership fees of $220 using his corporate credit card for which he is individually liable. Kylie paid $1,100 on 30 September 2000 to Funresort Ltd, using her private credit card, for her intended holiday in the Whitsundays. Both the golf club and Funresort Ltd are registered for GST.*

42. *Archimedes Ltd agreed to pay the liability originally incurred by Riccardo and also agreed to specifically pay the expense of the holiday incurred by Kylie using her private credit card. Archimedes Ltd would, under Division 111 of the GST Act, be entitled to input tax credits of $20(1/11$^{th}$ of $220) for the reimbursement to Riccardo and $100(1/11$^{th}$ of $1,100) for the payment to Kylie. Consequently, both of these fringe benefits would be type 1 benefits.*

43. Section 149A(2) states that GST-creditable benefits can also be other types of benefits depending on the way in which the 'thing', that has been acquired or imported, is made available to the employee. The provisions would, therefore, cover benefits that arise from the employee's use of a 'thing' such as a car.

*Example 2*

44. *Archimedes Ltd provides the following benefits to its employees from 1 July 2000:*

- *Riccardo is provided with a home entertainment unit purchased by Archimedes Ltd for $2,200 from a retail electrical store on 12 August 2000.*
- *Kylie is provided with a car by way of novated lease, during the period 1 July 2000 to 31 March 2001. The lease payments totalled $3,300.*

45. *Archimedes Ltd would be entitled to input tax credits of $200(1/11th of $2,200) in respect of the home entertainment unit and $300 (1/11th of $3,300) input tax credits in respect of the lease payments. Archimedes Ltd would treat both the property fringe benefit and the car fringe benefits as type 1 benefits. The taxable value of the property fringe benefit provided to Riccardo was $2,200. The taxable value of the car fringe benefits provided to Kylie was $3,300.*

46. The provisions of section 149A also apply to GST group arrangements. A benefit will be a GST-creditable benefit where another member of a GST group, rather than the person who is providing the benefit, is entitled to GST input tax credits in respect of the benefit being provided.

**Higher Gross-up Formula**

47. The higher gross-up formula to be applied to type 1 benefits under subsection 5B(1B) is:

$$\frac{\text{FBT rate} + \text{GST rate}}{(1 - \text{FBT rate}) \times (1 + \text{GST rate}) \times (\text{FBT rate})}$$

48. Where the FBT rate is 48.5% and the GST rate is 10% the formula becomes:

$$\frac{0.485 + 0.1}{(1 - 0.485) \times (1 + 0.1) \times (0.485)}$$

$$= \frac{0.585}{0.2747525}$$

$$= 2.1292$$

The higher gross-up rate is therefore 2.1292.

Where the FBT rate is 46.5% and GST rate is 10% the formula becomes:

$(0.465 + 0.1)/((1 - 0.465) \times (1 + 0.1) \times (0.465))$

$= (0.565/0.2736525)$

$= 2.0647$

*Example 3*

49. *Using the data from Examples 1 and 2, Archimedes Ltd would work out its Type 1 Aggregate Fringe Benefits Amount as follows:*

| | | |
|---|---|---|
| *Riccardo's* | *golf club fees* | *$ 220* |
| *Riccardo's* | *home entertainment unit* | *$2,200* |
| *Kylie's* | *holiday* | *$1,100* |
| *Kylie's* | *use of the car* | *$3,300* |
| *Total* | *of type 1 benefits* | *$6,820* |

*Type 1 Aggregate Fringe Benefits Amount*

*$6,820 x 2.1292 = $14,521*

*(**Note:** All examples below for both type 1 and type 2 benefits have been calculated on the former gross-up rates, using an FBT rate of 48.5%.)*

50. The subsection 5B(1C) amount is worked out using the formula:

$$\text{Type 2 aggregate fringe benefits amount} \times \frac{1}{1 - \text{FBT rate}}$$

**Employer's Type 2 Aggregate Fringe Benefits Amount**

51. Subsection 5C(4) contains the method statement of how to work out an employer's type 2 aggregate fringe benefits amount. Steps 1 and 3 in the method statement require the employer to identify the fringe benefits and excluded fringe benefits that are not type 1 benefits. Consequently, if a fringe benefit or excluded fringe benefit is not a type 1 benefit it will be a type 2 benefit.

**Benefits 'Not Acquired' or 'Not Imported'**

52. The 'thing' referred to in subparagraphs 149A(2)(a)(i) to (vi) inclusive must have been acquired or imported. The 'test' for determining which gross-up rate to use is whether the acquisition, or importation, of the 'thing' used to provide the benefit resulted in an entitlement to an input tax credit to the provider. If the relevant 'thing' has neither been acquired nor imported (e.g., manufactured) it cannot be a type 1 benefit and will be a type 2 benefit.

*Example 4*

53. *Archimedes Ltd, on 5 August 2000, provided a bathtub it manufactured to Riccardo. The bathtub was identical to those normally sold to retailers and had an in-house property fringe benefit taxable value of $1,500*[21].

*Archimedes Ltd would treat the provision of the bathtub as a type 2 benefit as it was not 'acquired' for the purposes of section 149A.*

## GST-*free* and Input Taxed Benefits

54. The provision of a fringe benefit may, in some instances, either be a GST-*free* supply or an input taxed supply under the GST Act. A provider of the benefit in these situations has no entitlement to a GST input tax credit**.**

55. Supplies of fringe benefits that are either *GST-free* or input taxed do not meet the requirements for being creditable acquisitions under s149A. As no GST input credit is available to the provider, the benefits cannot be type 1 benefits. Accordingly, such benefits will be type 2 benefits.

*Example 5*

56. *Archimedes Ltd agreed on 8 September 2000 to pay for the long-term residential accommodation in a major city for Riccardo. The cost of the accommodation was $5,000. Archimedes Ltd, on the same date, paid $2,000 in private school fees for the children of Kylie. As the supply of the residential accommodation was input taxed, Archimedes Ltd would treat this as a type 2 benefit. The payment of the school fees, the supply of which was GST-free, would also be treated as a type 2 benefit.*

## Other Benefits For Which There Is No Entitlement To An Input Tax Credit

57. Some other benefits may be supplied that do not entitle the provider of the benefit to GST input tax credits under the GST Act. These are fringe benefits where the acquisition does not meet the requirements for being a creditable acquisition under section 11-5 of the GST Act or such an acquisition is denied from being a creditable acquisition by the operation of some other section of the GST Act.

[21] If during the FBT year an employer provides one or more in-house fringe benefits to an employee, then the aggregate of the taxable values of the 'in-house' fringe benefits may be reduced by $500 under section 62. In the example, the bathtub, costing $2,000, was the only in-house benefit provided to Riccardo during the year so the taxable value was $1,500($2,000 - $500).

*Example 6*

58. *Euripides Pty Ltd, on 23 November 2000, gave each of its two employees a new television set costing $1,100. The company neither makes nor sells television sets. Euripides Pty Ltd has an annual turnover of less than $50,000 and has decided not to register for GST. As the company is not registered it is not entitled to claim GST input tax credits on the televisions it provided to the employees. The property fringe benefits provided would be type 2 benefits.*

*Example 7*

59. *Plato Ltd, who is registered for GST, has agreed under a salary sacrifice arrangement to pay the private credit card bills of an employee Sue-Lee. Any payments made by Plato Ltd under the agreement are not for any specific purchases by Sue-Lee but to pay Sue-Lee's debts to the credit card provider (that is, the card balances or some proportion of the balances). The payments by Plato Ltd to the credit card company are not creditable acquisitions for Plato Ltd as the debts to the credit card provider were not taxable supplies to Sue-Lee. Plato Ltd will therefore treat the payments to the credit card provider as type 2 benefits.*

**Lower Gross-up Formula**

60. The lower gross-up formula to be applied to type 2 benefits under subsection 5B(1C) is:

$$\frac{1}{(1 - \text{FBT rate})}$$

Where the FBT rate is 48.5% the formula becomes:

$$\frac{1}{(1 - 0.485)}$$

$$= \frac{1}{0.515}$$

$$= 1.9417$$

The lower gross-up rate is therefore 1.9417.

Where the FBT rate is 46.5% the formula becomes:

1/(1-0.465)

= 1/0.535

= 1.8692

*Example 8*

61. *Using the data from Examples 4 and 5, Archimedes Ltd would work out its Type 2 Aggregate Fringe Benefits Amount as follows:*

| | | |
|---|---|---|
| *Riccardo's* | *bathtub* | *$1,500* |
| *Riccardo's* | *accommodation* | *$5,000* |
| *Kylie's* | *school fees* | *$2,000* |
| *Total:* | *of type 2 benefits* | *$8,500* |

*Type 2 Aggregate Fringe Benefits Amount*

*$8,500 x 1.9417 = $16,504*

**Excluded Fringe Benefits and the Employer's Aggregate Fringe Benefits Amount**

62. Section 5E sets out how to work out an employee's individual fringe benefits amount. This amount is grossed-up to determine the total employee's reportable fringe benefits amount to be disclosed on the employee's payment summary.

63. However, under subsection 5E(2) certain benefits, known as excluded fringe benefits, are not included in the employee's reportable fringe benefits amount.

64. Excluded fringe benefits are only 'excluded' from being reported on the employee's payment summary. Such benefits are not 'excluded' from being part of an employer's aggregate fringe benefits amount on which the employer's FBT is calculated.

*Example 9*

65. *Xenia Ltd, who is registered for GST, provided staff entertainment of $2,200 and client entertainment of $3,300 in the period 1 July 2000 to 31 March 2001. It is assumed that Xenia Ltd would have paid GST on the cost of all the entertainment.*

*Xenia Ltd has elected, under Division 9A of the FBTAA and Subdivision 69-5 of the GST Act, to treat the entertainment as 'meal entertainment' and use the '50/50 split method' to work out the taxable value.*

*As Xenia Ltd would be entitled to an input tax credit[22] as a result of the provision of the entertainment fringe benefits it would treat the fringe benefits as type 1 benefits. Xenia Ltd would classify the fringe benefits in this way notwithstanding that the provision of 'meal entertainment' is 'excluded' from being reported on employees' payment summaries.*

*The taxable value of the "meal entertainment" would be $2,750 (($2,200 + $3,300) x 50%). The fringe benefits taxable amount would be $5,855 ($2,750 x 2.1292) and the FBT payable would be $2,839 ($5,855 x 48.5%).*

### Employer's Type 1 and Type 2 Individual Base Non-Exempt Amounts and Employer's Type 1 and Type 2 Individual Base Non-Rebatable Amounts

66. From 1 April 2000, the FBT exemption allowed under section 57A for private not-for-profit and public hospitals is capped at $17,000 of the grossed-up taxable value of fringe benefits for each employee. Employers in this category will need to apply a specific calculation methodology when ascertaining whether an FBT liability arises.

67. From 1 April 2001, the FBT exemption under section 57A available to public benevolent institutions and charitable institutions (other than private not-for-profit and public hospitals) will be capped at $30,000 of grossed-up taxable value of fringe benefits for each employee that receives fringe benefits from that date. Employers in this category will need to apply a specific calculation methodology when ascertaining whether an FBT liability arises.

68. For employers that fall within the categories mentioned in paragraphs 66 and 67 above, some benefits such as entertainment by way of food or drink, car parking fringe benefits, or hiring or leasing entertainment facilities such as corporate boxes, will remain exempt from FBT and are not included in the capping threshold irrespective of the value of other benefits provided to an employee.

69. The specific calculation methodologies mentioned in paragraphs 66 and 67 are set out in subsections 5B(1F) and 5B(1G) respectively. They are similar to the calculations under subsections 5B(1B) and 5B(1C).

70. From 1 April 2001, the rebatable amount available to eligible rebatable employers will be capped at $30,000 of grossed-up taxable value of fringe benefits for each employee. Employers in this

[22] Under subsection 69-5(3A) of the GST Act an acquisition or importation of meal entertainment and entertainment facilities will only be creditable to the extent that it is deductible under sections 51AEA to 51AEC of the ITAA 1936.

category will need to apply a specific calculation methodology when ascertaining whether an FBT liability arises.

71. For rebatable employers some benefits, such as entertainment by way of food or drink, car parking fringe benefits, or hiring or leasing entertainment facilities such as corporate boxes, are not included in the capping threshold irrespective of the value of other benefits provided to an employee. However, such benefits will be taken into consideration when calculating the amount of rebate available.

72. The specific calculation methodologies mentioned in paragraph 70 are set out in subsections 65J(2C) and 65J(2D) respectively. They are similar to the calculations under subsections 5B(1B) and 5B(1C).

## Value of Fringe Benefits – GST-inclusive or GST-exclusive?

### *Car Fringe Benefits*

73. The taxable value of a car fringe benefit may be calculated by using either the 'statutory method' or the 'operating cost method'. Under the statutory method the taxable value is principally calculated on a percentage of the car's base value which, in turn, is derived from the *cost price* of the car as defined in subsection 136(1). The taxable value under the operating cost method is a percentage of the total costs of operating the car. Under the operating cost method there are 'deemed operating costs' where the car is owned. *Cost price* is also used when determining 'deemed depreciation' and 'deemed interest', under the operating cost method.

74. The definition of *cost price* has not altered as a result of the introduction of GST, although those parts of the definition that refer to sales tax have become redundant, in most cases, when GST commenced.

75. In the *cost price* definition, the phrase 'the amount for which the car could reasonably have been expected to have been sold by the person by wholesale' is used for circumstances where the car is owned and manufactured by the same person. As car manufacturers will be registered for GST it is expected that any wholesale sales made by those manufacturers will always include GST. Therefore, their GST-inclusive value will be 'the amount for which the car could reasonably have been expected to have been sold by the person by wholesale'.

76. In the *cost price* definition, the phrase 'the expenditure incurred by the person… that is directly attributable to the acquisition or delivery of the car' (other than expenditure in respect of registration) is used for circumstances where the car is owned but not manufactured by the person. It is expected that any retail sales of

cars, from 1 July 2000, will always include GST in the retail price and therefore their GST-inclusive value will be 'the expenditure incurred by the person… that is directly attributable to the acquisition or delivery of the car'. For the reasons above, 'non-business accessories' fitted to the car will also be brought into account at their GST-inclusive value as appropriate.

77. This also means that the base value of leased cars, under the statutory method, will be the GST-inclusive value as appropriate. Under the operating cost method, where the car is leased the leasing costs involved are part of the 'actual operating costs'. The phrase 'so much of the charges paid or payable under the lease agreement as are attributable to the holding period' is used for such cases in subsection 10(3). Most lease payments (i.e., those not under non-reviewable leasing contracts entered into before 8 July 1999) after 1 July 2000 include GST. Therefore, 'any expense incurred by the lessor pursuant to the lease agreement' will be the GST-inclusive value. The value of lease payments on which GST is not chargeable will be the amount of the expenditure paid or incurred.

78. Where car expenses such as 'repairs', 'maintenance', 'fuel' and 'registration and insurance' are part of the operating cost method calculations their cost will be at the GST-inclusive value as appropriate.

79. The base values for car fringe benefits calculated under the statutory method and the operating costs for car fringe benefits calculated under the operating cost method will be at the GST-inclusive value where appropriate. This applies whether the car is owned, manufactured or leased or whether non-business accessories are fitted.

### *Debt Waiver Fringe Benefits*

80. The taxable value of a debt waiver fringe benefit is the amount of the total debt released (including any interest waived where applicable). This has not altered after 1 July 2000.

### *Loan Fringe Benefits*

81. The taxable value of a loan fringe benefit is the difference between the FBT statutory interest rate and the actual interest rate payable by the employee or his/her associate. The value of the loan fringe benefit remains the difference between the FBT 'statutory' interest rate and the 'actual' rate.

### *Expense Payment Fringe Benefits*

82. The taxable value of an expense payment fringe benefit is either the amount of the payment directly made to a third party or the amount of the reimbursement made to the employee or his/her associate. It will be a question of fact whether GST is included. As it is the 'amount' directly paid or reimbursed that determines the taxable value of the expense payment fringe benefit such an 'amount' will be at the GST-inclusive value where appropriate.

### *Housing Fringe Benefits*

83. The taxable value of a housing fringe benefit is measured by reference to the market value of the right to occupy the unit of accommodation. A housing right includes a lease or licence to occupy or use the accommodation.

84. The supply of residential premises by way of lease, hire or licence will usually be input taxed under the GST Act. Therefore, where the employer pays for such residential premises no GST will be in the payment. However, some GST input tax credits may be available for commercial residential premises or short-term accommodation provided to employees but this will be a question of fact in a particular case (refer to Goods and Services Tax Ruling GSTR 2000/20 *Goods and Services Tax: commercial residential premises*).

### *Living-Away-From-Home-Allowance Fringe Benefits (LAFHA)*

85. The taxable value of a LAFHA is the amount of the allowance paid less any parts of the allowance that are reasonable compensation for the cost of accommodation and/or increased expenditure on food. The value of the LAFHA is therefore the difference between the amount of the allowance and the amount exempted for accommodation and/or food. The introduction of GST has not changed this position.

### *Airline Transport Fringe Benefits*

86. The taxable value of an airline transport fringe benefit is the stand-by value less any employee contribution. The stand-by value for domestic travel is based on the lowest publicly advertised economy air fare over that route. The stand-by value for international travel is based on the lowest published fare for that international route. The definitions of stand-by values have not changed from 1 July 2000. Such stand-by values will therefore be at their GST-inclusive value as appropriate. Airline transport that falls within Subdivision 38-K of

the GST Act is *GST-free*, e.g., transport to, from or outside, Australia; transport of passengers on domestic legs of international flights.

### *Board Fringe Benefits*

87. The taxable value of a board fringe benefit is $2.00 per meal per person (or $1.00 per person under the age of 12 years). The taxable values for board fringe benefits are 'statutory values' that have been unaffected by the introduction of GST.

### *Meal Entertainment Fringe Benefits*

88. Where expense payment, airline transport, property, tax-exempt body entertainment or residual benefits arise from the provision of meal entertainment the employer may elect to classify these fringe benefits as 'meal entertainment fringe benefits'.

89. The taxable value of meal entertainment fringe benefits may be calculated under the '50-50 split method' or the '12 week register method'. Both methods are based on the total meal entertainment expenditure. As the taxable values under either method result from the actual expenditure incurred this will result, in turn, in their value being the GST-inclusive value where applicable.

### *Tax-Exempt Body Entertainment Fringe Benefits*

90. The taxable value of a tax-exempt body entertainment fringe benefit is the amount of the entertainment expenditure incurred that relates to the employee. As the taxable value results from the actual expenditure incurred this will, in turn, result in the value being the GST-inclusive value where applicable from 1 July 2000.

### *Car Parking Fringe Benefits*

91. Where either the commercial car parking station method or the average cost method is used to determine the taxable value, the 'lowest fees charged' will include GST after 1 July 2000 and therefore such fees will be the GST-inclusive value as appropriate.

### *Property Fringe Benefits*

92. The taxable value of an external property benefit is equal to the cost price of the property to the employer in an arm's-length transaction (or the amount the employee could reasonably be expected to pay for non arm's-length transactions).

93. The taxable value of an in-house property benefit is basically either:

- The provider's lowest arm's-length selling price for non-retail goods.
- For retail goods, it is 75% of the lowest selling price of identical goods sold to the public or 75% of the market value for similar property where the goods provided are not identical to those sold to the public.

94. Where property is provided as a fringe benefit the taxable value will be a question of fact. The value will be the GST-inclusive value or the GST-exclusive value depending on whether GST is payable.

### *Residual Fringe Benefits*

95. The taxable value of an external residual benefit is equal to the cost price of the property to the employer in an arm's-length transaction (or the amount the employee could reasonably be expected to pay for non arm's-length transactions).

96. The taxable value of an in-house residual benefit is basically either:

- 75% of the lowest arm's-length price charged to the public at the time for identical benefits.
- 75% of the amount the employee could reasonably be expected to pay to acquire the benefit under an arm's-length transaction.

The taxable value of a residual benefit will be a question of fact. The value will be the GST-inclusive value or GST-exclusive value depending on whether GST is payable.

## The Value of Employee Contributions After 1 July 2000

97. The definitions of recipient's payment, recipients contribution or **recipients rent**[23] in the FBTAA have not been altered.

98. The definitions of recipient's payment in paragraphs 9(2)(e) and 10(3)(c), which relate to an employee contribution towards a car fringe benefit, uses the phrase 'the amount of those expenses paid by the recipients'. Where the recipient's payment is paid to the employer the full amount will be the 'amount of expenses paid by the recipient' in satisfaction of the expenses incurred to the employer or provider (if you do not have any set off for reimbursed amounts).

[23] Recipients rent is defined in subsection 136(1) (see also paragraph 103).

99. This situation has not altered since 1 July 2000. Under the GST Act such payment will be used to arrive at the **price**[24] of a GST taxable supply that is a fringe benefit in order to calculate the amount of GST payable on that taxable supply (i.e., $1/11^{th}$ of that price). That calculation relates only to arriving at the employer's GST liability and does not affect the amount of the payment in arriving at the employer's FBT liability (refer to Goods and Services Tax Ruling GSTR 2001/3). Consequently, a recipient's payment to an employer will not be reduced to reflect any GST that may have been remitted, or is required to be remitted, in respect of that payment.

100. Where the recipient's payment is by way of fuel, oil or servicing it can be expected that most, if not all, such items or services will be subject to GST at the time of purchase or provision of the service to the employee. However, a recipient's payment made in this way will not be consideration for the supply of the benefit, for GST purposes, as it will have been consideration for the supply of those items or services by the third party. A recipient's payment, made in this way, is not consideration for the supply of the car fringe benefit and will not be reduced to reflect any GST paid to the third parties.

*Example 10*

101. *Using the data from Example 2, Kylie is provided with a car by Archimedes Ltd. The value of the car fringe benefit is $3,300.*

*Kylie makes a cash contribution of $1,100 directly to her employer in respect of the provision of the car . Although Archimedes Ltd will have to remit $100 ($1/11^{th}$ of $1,100) of that contribution as GST the company will deduct the full $1,100 of Kylie's contribution when calculating the taxable value of the car fringe benefits.*

*Kylie also pays some of the running costs in relation to the car. Kylie paid $400 for fuel, oil and servicing to her local service station in the period 1 July 2000 to 31 March 2001. This amount, although being a 'recipient's payment' for FBT purposes, is not a payment that is consideration for the supply of the car fringe benefits for GST purposes.*

*When Archimedes Ltd calculates the taxable value of the car fringe benefits provided to Kylie it will deduct the total of the recipient's payments made by her, i.e., $1,500 ($1,100 + $400).*

102. The definition of recipients contribution in subsection 136(1), which relates to a contribution by an employee towards either an expense payment, airline transport, board, car parking, property or residual fringe benefits, includes the phrases 'the amount of any

[24] Subsection 9-75(3) of the GST Act deals with what is the price of the supply of a fringe benefit as defined in that Act.

consideration paid to the provider or to the employer by the recipient or by the employee' and 'the amount paid to the provider or to the employer by the recipient or by the employee' (if you do not have any set off for reimbursed amounts). The amount of the recipients contribution will not be reduced because of any GST that the employer may be required to remit when calculating the taxable value of the relevant fringe benefit for FBT purposes. The reasons for this are similar to those discussed previously for 'recipient's payment' at paragraphs 98-101.

103. The definition of recipients rent in subsection 136(1), which relates to an employee contribution towards a housing fringe benefit, includes the phrase 'the amount of any rent or other consideration paid to the provider or to the employer by the recipient or the employee' (if you do not have any setoff for reimbursed amounts).

104. Under subsection 9-75(3) of the GST Act, only a recipient's payment or a recipients contribution determines the price of the taxable supply of a fringe benefit or an exempt benefit. Recipients rent is, therefore, not used to determine the price of a taxable supply of a fringe benefit or an exempt benefit. The amount of the recipients rent will not be reduced when calculating the taxable value of the housing fringe benefit as an employer will not be required to remit GST.

105. Therefore, the full amount of any contributions by an employee towards a fringe benefit will be deducted in arriving at the relevant fringe benefit's taxable value (if you do not have any setoff for reimbursed amounts). However, the employer may be required to remit GST with reference to recipient's payments and recipients contributions (refer to Goods and Services Tax Ruling GSTR 2001/3).

**Reportable Fringe Benefits Amounts**

106. The higher gross-up rate will not affect an employee's 'reportable fringe benefit amount'. The employer will continue to use the lower gross-up rate of 1.9417 to work out an employee's reportable fringe benefits amount. The employer will only use the higher gross-up rate to calculate the employer's FBT liability where the employer, or other registered provider, is entitled to an input tax credit in respect of the provision of that fringe benefit.

*Example 11*

107. *Using the same employer, employees and data from Examples 1, 2, 4, 5 and 10, Riccardo and Kylie received the following types of benefits from their employer Archimedes Ltd:*

| | | | |
|---|---|---|---|
| *Riccardo* | *$2,420* | *($220 + $2,200)* | *type 1 benefit* |
| *Riccardo* | *$6,500* | *($1,500 + $5,000)* | *type 2 benefit* |
| *Total* | *$8,920* | | *benefits* |
| | | | |
| *Kylie* | *$2,900* | *($1,100 + $1,800)* | *type 1 benefit* |
| *Kylie* | *$2,000* | *($2,000)* | *type 2 benefit* |
| *Total* | *$4,900* | | *benefits* |

*The reportable fringe benefits amount to go on the payment summaries for Riccardo and Kylie will be $17,319($8,920 x 1.9417) and $9,514($4,900 x 1.9417) respectively.*

**Income Tax and Fringe Benefits From 1 July 2000**

108. Schedule 3 and Schedule 8 respectively of the *A New Tax System (Indirect Tax and Consequential Amendments) Act 1999* amend the *Income* Tax *Assessment Act 1997* (ITAA 1997) and the *Income Tax Assessment Act 1936* (ITAA 1936) to exclude GST from income derived and from deductible amounts to the extent of an entity's input tax credit entitlement.

109. Under section 27-5 of the ITAA 1997 an amount corresponding to the entitlement to GST input tax credits will be excluded from deductible losses or outgoings that are incurred. Therefore, the costs of fringe benefits that qualify as income tax deductions, under the ITAA 1997, will be deductible at the GST-exclusive value as applicable.

*Example 12*

110. *Using data from Example 2, Archimedes Ltd provided Riccardo with a home entertainment unit that it purchased on 12 August 2000. The cost was $2,200 (including $200 GST). As Archimedes Ltd was entitled to an input tax credit of $200 for providing the property fringe benefit it would claim $2,000 ($2,200 - $200) as an income tax deduction.*

*Example 13*

111. *Using the data from Example 6, as Euripides Pty Ltd was not entitled to an input tax credit the company would claim an income tax deduction for the full amount of $1,100 paid for each of the television sets given to its employees.*

112. The taxable value of certain fringe benefits may be reduced to the extent that the employee would have been able to claim an income

tax deduction had the employee themselves incurred the expense. The otherwise deductible rule applies to reduce the taxable value of either an airline transport fringe benefit, a board fringe benefit, an expense payment fringe benefit, a loan fringe benefit, a property fringe benefit or a residual fringe benefit. The taxable value is reduced by the hypothetical income tax deduction to which the employee would have been entitled had the employee incurred the expense. An employee has no 'entitlement to an input tax credit' under the GST Act and may, for the purposes of section 27-5 of the ITAA 1997, claim a deduction for the GST-inclusive value of any relevant expenditure. Therefore, where the 'otherwise deductible rule' applies to the calculation of the taxable value of a fringe benefit such 'deductible amount' will be at the GST-inclusive value as applicable.

*Example 14*

113. *Archimedes Ltd paid $660, on 5 February 2001, for Riccardo's professional association membership fees.*

*When Archimedes Ltd is working out the taxable value of the expense payment fringe benefit provided to Riccardo the taxable value can be reduced by the hypothetical deduction that would have been available to Riccardo had he been the one that had paid the fees. As the membership fees are directly related to Riccardo's derivation of income with Archimedes Ltd he would have been entitled to an outright income tax deduction for 100% of the cost under subsection 8-1 of the ITAA97.*

*The taxable value of the expense payment fringe benefit would consequently be $0 ($660 - $660).*

114. Paragraph 17-5(a) of the ITAA 1997 excludes the GST component of any recoupment of an amount paid in acquiring something that is to be included in assessable income. Therefore, an employee contribution will be added to an employer's assessable income, under the provisions of the ITAA 1997, at the GST-exclusive value where such contribution is either a recipient's payment or a recipients contribution and such recipient's payment or recipients contribution is a contribution for a taxable supply for GST purposes.

*Example 15*

115. *Following on from Example 10, Kylie has contributed $1,100 to her employer towards the provision of the car. Archimedes Ltd would include, in its assessable income for the financial year ended 30 June 2001, $1,000 ($1,100 - $100) in respect of the recipient's payment for which it was obliged to remit GST.*

116. **Calculation of Employer's FBT Liability from 1 April 2000**
**(who is not a public benevolent institution nor a rebatable employer)**

Step 1

(a) Calculate the total of the individual type 1 fringe benefits amounts for each employee.

(b) Calculate the total of the taxable values of all type 1 excluded fringe benefits.

(c) Add together the totals obtained from (a) and (b) above to get the aggregate type 1 fringe benefits amount.

Step 2

(a) Calculate the total of the individual type 2 fringe benefits amounts for each employee.

(b) Calculate the total of the taxable values of all type 2 excluded fringe benefits.

(c) Add together the totals obtained from (a) and (b) above to get the aggregate type 2 fringe benefits amount.

Step 3

(a) Multiply the aggregate type 1 fringe benefits amount by the higher gross-up rate of 2.1292.

(b) Multiply the aggregate type 2 fringe benefits amount by the lower gross-up rate of 1.9417.

(c) Add together the totals obtained from (a) and (b) above to get the fringe benefits taxable amount.

Step 4

(a) Multiply the fringe benefits taxable amount by the FBT tax rate (currently 48.5%) to get the FBT payable.

*Example 16*

117. *Using the data from examples 1, 2, 4, 5, 10, and 14, Archimedes Ltd would work out its FBT payable as follows:*

*Step 1(a)*

*The individual type 1 non-excluded fringe benefits amounts are:*

| | | | |
|---|---|---|---|
| *Riccardo's* | *golf club fees* | *$ 220* | *(Example 1)* |
| *Riccardo's* | *home entertainment unit* | *$2,200* | *(Example 2)* |
| *Riccardo's* | *type 1 total* | *$2,420* | |
| | | | |
| *Kylie's* | *holiday* | *$1,100* | *(Example 1)* |

| | | | |
|---|---|---|---|
| *Kylie's* | *car fringe benefit* | *$1,800* | *(Example 2)* |
| *Kylie's* | *type 1 total* | *$2,900* | |

Note : *The taxable value of Kylie's car fringe benefit is $1,800 due to her employee contributions of $1,100 and $400 (Example 10) i.e., ($3,300 – ($1,100 + $400)).*

*Step 1(b)*

*There were no type 1 excluded fringe benefits in the examples for Archimedes Ltd.*

*Step 1(c)*

*The type 1 aggregate fringe benefits amount is $5,320 ($2,420 + $2,900).*

*Step 2(a)*

*The individual type 2 non-excluded fringe benefits amounts are:*

| | | | |
|---|---|---|---|
| *Riccardo's* | *bathtub* | *$1,500* | *(Example 4)* |
| *Riccardo's* | *accommodation* | *$5,000* | *(Example 5)* |
| *Riccardo's* | *type 2 total* | *$6,500* | |

| | | | |
|---|---|---|---|
| *Kylie's* | *school fees* | *$2,000* | *(Example 5)* |
| *Kylie's* | *type 2 total* | *$2,000* | |

*Step2(b)*

*There were no type 2 excluded fringe benefits in the examples for Archimedes Ltd.*

*Step2(c)*

*The type 2 aggregate fringe benefits amount is $8,500 ($6,500 + $2,000).*

*Step3(a)*

*Multiply the aggregate type 1 fringe benefits amount of $5,320 by 2.1292 = $11,327.*

*Step3(b)*

*Multiply the aggregate type 2 fringe benefits amount of $8,500 by 1.9417 = $16,504.*

*Step3(c)*

*The fringe benefits taxable amount is $27,831 ($11,327 + $16,504).*

*Step 4*

*The FBT payable by Archimedes Ltd for the 2001 FBT year is $13,498 ($27,831 x 48.5%).*

# Examples

### Further examples on car fringe benefits

***Which gross-up rate do you use for a car bought before 23 May 2001?***

118. Most employers, or other providers, will not be entitled to a GST input tax credit for cars bought before 23 May 2001.[25] This means they will need to use the lower gross-up rate of 1.9417.

*Example* 17

119. *Aeneas Ltd is a company registered for GST that purchased a car on 2 April 2001 for $33,000 including GST. The company provides the car as a car fringe benefit to its company accountant in the FBT year ended 31 March 2002. When Aeneas Ltd calculates its FBT liability in respect of the car fringe benefit for the 2002 FBT year it will use the lower gross-up rate of 1.9417 as it is not entitled to an input tax credit for the $3,000 GST it paid on the car's purchase.*

***Which gross-up rate do you use for a car bought after 1 July 2000 and the purchaser was entitled to an input tax credit from that date?***

120. There are some circumstances where the purchaser of a car will be entitled to a full input tax credit from 1 July 2000. These are as follows:

(i) The purchaser would have been entitled to a sales tax exemption, had sales tax still applied

(ii) The car acquired was a second-hand motor vehicle

[25] Section 20 of Part 5 in the Special transitional rule of *ANTS(GSTT) Act 1999*.

(iii) The purchaser was an insurer and was replacing a motor vehicle under an insurance policy or

(iv) The purchaser was acquiring the car to hold as trading stock (other than stock used for hire).

*Example 18*

121. *Basilia Shire Council is registered for GST and was exempt from wholesale sales tax (WST) before 1 July 2000. The Basilia Shire Council purchased a car on 1 July 2000 for $33,000 including GST. The Shire Council provided the car as a car fringe benefit to its Chief Engineer in the FBT year ended 31 March 2001. The Chief Engineer is only allowed to use the car privately for home to work travel.*

*As Basilia Shire Council would have been granted WST exemption for a car provided in such circumstances it is entitled to claim the full GST input tax credit of $3,000 from the purchase of the car[26]. When the Shire Council calculates its FBT liability in respect of the car benefit for the 2001 FBT year it will use the higher gross-up rate of 2.1292 due to its entitlement to the input tax credit.*

***Which gross-up rate do you use for a car bought before 23 May 2001 but its running and maintenance costs after that date had input tax credit entitlements?***

122. Most employers, or other providers, will not be entitled to a GST input tax credit for cars bought before 23 May 2001. This means they will need to use the lower gross-up rate of 1.9417.

123. The determining factor for which gross-up rate you use for a car fringe benefit is whether the provider was entitled to an input tax credit at the time the car was acquired. Under those circumstances, the relevant matter is the original purchase of the car even though running and maintenance costs, on which GST has been paid and which may give rise to an entitlement to an input tax credit, may subsequently have been paid. Despite the subsequent payment of such costs the lower gross-up rate of 1.9417 will still be used where the car was purchased before 23 May 2001.

[26] The private use of a car limited solely to 'home to work' travel is one of the few exceptions to section 15E of the Sales Tax Assessment Act 1992 that generally prohibits sales tax exemption for cars purchased by Federal, State and Local Government bodies etc. where the vehicles were provided for the private use of employees as part of their remuneration.

*Example 19*

124. *Castor Ltd is a company registered for GST that purchased a car on 1 May 2001. The company provides the car to its company secretary in the FBT year ended 31 March 2002. When Castor Ltd calculates its FBT liability in respect of the car fringe benefits for the 2002 FBT year it will use the lower gross-up rate of 1.9417 as it is not entitled to an input tax credit for the GST it paid on the car's purchase. If Castor Ltd is entitled to input tax credits for the car's running and maintenance costs it incurred after 1 July 2000 it would still use the lower gross-up rate to calculate the fringe benefits taxable amount for the car fringe benefits.*

***Which gross-up rate do you use for a car bought before 23 May 2001 but the non-business fitted accessories were purchased after 1 July 2000?***

125. Most employers, or other providers, will not be entitled to a GST input tax credit for cars bought before 23 May 2001. This means they will need to use the lower gross-up rate of 1.9417.

126. The determining factor for which gross-up rate you use for a car fringe benefit is whether the provider was entitled to an input tax credit at the time the car was acquired. Under those circumstances, the relevant matter is the original purchase of the car even though non-business accessories, on which GST has been paid and which may give rise to an entitlement to an input tax credit, may subsequently be fitted. Despite the subsequent addition of such non-business accessories the lower gross-up rate of 1.9417 will still be used where the car was purchased before 23 May 2001.

*Example 20*

127. *Diantha Ltd is a company registered for GST that purchased a car on 3 April 2001 for $33,000 including GST. The company provides the car to its company accountant in the FBT year ended 31 March 2002. When Diantha Ltd calculates its FBT liability in respect of the car fringe benefits for the 2002 FBT year it will use the lower gross-up rate of 1.9417 as it is not entitled to an input tax credit for the $3,000 GST it paid on the car's purchase. If Diantha Ltd subsequently fitted non-business accessories it would still use the lower gross-up rate to calculate the fringe benefits taxable amount for the car fringe benefit.*

128. [Deleted]

129. [Deleted]

130. [Deleted]

***Which gross-up rate do you use for a car bought from 23 May 2001 onwards?***

131. Employers will use the higher gross-up rate as long as they, or other providers, were entitled to a GST input tax credit at the time they bought the car.

132. Most registered employers, or other registered providers, will be entitled to a full GST input tax credit for cars bought from 23 May 2001 onwards. They will use the higher gross-up rate of 2.1292 from 23 May 2001.

*Example 22*

133. *Filipa Ltd is a company registered for GST who entered into a hire purchase agreement on 22 June 2001 for the purchase of a car for $33,000 (not including the hire charges which were separately disclosed in the agreement). The car was to be used by one of its senior employees. The GST paid on the purchase was $3,000 and as Filipa Ltd is entitled to claim the full $3,000 GST input tax credit from the purchase of the car it will use the higher gross-up rate of 2.1292 when it calculates its FBT liability in respect of the car benefit for the 2002 FBT year.*

***Which gross-up rate do you use for a car leased only before 1 July 2000?***

134. Lease fees will not have GST applied before 1 July 2000 so no input tax credit would be available before then. This means that the lower gross-up rate is to be used for any benefit provided up until 1 July 2000.

*Example 23*

135. *Gregoire Ltd, who is registered for GST, leased a car from 1 April 2000 to 30 June 2000 (when the lease ended) which it provided to the financial controller of the company. As all the lease payments were made before 1 July 2000 no GST would have been paid. Gregoire Ltd would use the lower gross-up rate of 1.9417 irrespective of whether it chooses to use the 'statutory formula method' or the 'operating cost method' to calculate its FBT liability in respect of the car benefit for the 2001 FBT year.*

***Which gross-up rate do you use for a car leased before AND after 1 July 2000?***

136. If the lease spans 1 July 2000, the employer will need to divide the taxable value of the car fringe benefit into pre and post 1 July 2000 amounts. This is based on the number of days the car fringe benefit was provided between 1 April 2000 and 30 June 2000, and the number of days the car fringe benefit was provided between 1 July 2000 and 31 March 2001.

137. The lower gross-up rate of 1.9417 is used to work out the car fringe benefits taxable amount for the pre 1 July 2000 portion, and the higher gross-up rate of 2.1292 is used to work out the fringe benefits taxable amount for the post 1 July portion.

*Example 24*

138. *Hypatia Ltd , who is registered for GST, leased a car from 1 April 2000 to 31 March 2001 (under a contract that was not a non-reviewable contract entered into before 8 July 1999) to provide to the advertising manager of the company.*

139. *The company paid no GST on lease fees in the period 1 April 2000 to 30 June 2000, but paid GST on lease fees in the period 1 July 2000 to 31 March 2001. To determine the car fringe benefits liability for the 2001 FBT year, Hypatia Ltd needs to do the following:*

*(i)* *Calculate the taxable value of the car fringe benefit using either the 'statutory formula method' or the 'operating cost method' as it so chooses. In this case, Hypatia Ltd calculated the taxable value as $15,000 using the operating cost method.*

*(ii)* *Determine the number of days the car fringe benefit was provided between 1 April 2000 to 30 June 2000 and 1 July 2000 to 31 March 2001. In this case it was 91 days and 274 days respectively and the total number of days was 365.*

*(iii)* *Arrive at the taxable amount for the car fringe benefit provided from 1 April 2000 to 30 June 2000 by multiplying the taxable value by 91/365 and 'grossing-up' the result by the lower rate.*

*i.e., ($15,000 x 91/365) x 1.9417 = $7,261*

*(iv)* *Arrive at the taxable amount for the car fringe benefit provided from 1 July 2000 to 31 March 2001 by multiplying the taxable value by 274/365 and 'grossing-up' the result by the higher rate.*

*i.e., ($15,000 x 274/365) x 2.1292 = $23,975.*

*(v) Add the two taxable amounts for the different periods to get the total taxable amount for the 2001 FBT year.*

*i.e., $7,261 + $23,975 = $31,236.*

*(vi) Apply the FBT rate of tax to the total taxable value to get the FBT payable for the 2001 FBT year.*

*i.e., $31,236 x 48.5% = $15,149.*

***How do you apply an employee's contribution for a car leased before AND after 1 July 2000?***

140. An employee's contribution towards a car lease that spans 1 July 2000 should be applied to the period or periods to which it relates.

141. If the employee contribution only relates to car fringe benefits provided during the period 1 April 2000 to 30 June 2000 then it will be applied to the taxable value of the car fringe benefit provided during that period.

142. If the contribution only relates to car fringe benefits provided during the period 1 July 2000 to 30 June 2001 then it will be applied to the taxable value of the car fringe benefit provided during that period

143. If the contribution is a single contribution that relates to the whole period of a lease that spans 1 July 2000, the employer will need to divide the employee contribution into pre and post 1 July 2000 amounts. This is based on the number of days the car fringe benefit was provided between 1 April 2000 and 30 June 2000, and the number of days the car fringe benefit was provided between 1 July 2000 and 31 March 2001.

*Example 25*

144. *Izzy Isidore is provided with a car by way of novated lease during the whole of the FBT year ending 31 March 2001.*

*He pays an amount of $4,000 on 15 March 2001 to his employer as a contribution for the whole year for the car fringe benefit. During the period 1 April 2000 to 30 June 2000, Izzy received a car fringe benefit for 91 days. During the period 1 April 2000 to 30 June 2000, he received a car fringe benefit for 274 days.*

*Izzy's employer will apply 91/365 of Izzy's contribution to the car fringe benefit's taxable value for the period 1 April 2000 to 30 June 2000 and 274/365 of his contribution to the car fringe benefit's taxable value for the period 1 July 2000 to 31 March 2001.*

***Which gross-up rate do you use for a car leased only after 1 July 2000?***

145. GST will be applied to lease fees from 1 July 2000, so input tax credits will be available to registered employers, or other registered providers, from that date. This means they should use the higher gross-up rate for any car fringe benefit provided after 1 July 2000.

*Example 26*

146. *Jacinda Ltd, who is registered for GST, leased a car from 1 July 2000 to 31 March 2001 to provide to the company's beautician. As all the lease payments were made after 1 July 2000 GST would have been paid. Jacinda Ltd would use the higher gross-up rate of 2.1292 irrespective of whether it chooses to use the 'statutory formula method' or the 'operating cost method' to calculate its FBT liability. If Jacinda Ltd continued the lease past 31 March 2001 it would also use the higher gross-up rate thereafter due to the availability of input tax credits on the lease payments*

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**Commissioner of Taxation**
18 May 2001

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*Related Rulings/Determinations:*
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- excluded benefit
- fringe Benefits Tax
- fringe benefits taxable amount
- GST input taxed
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ATO references:
NO T2000/008929
BO
FOI number: I 1025081
ISSN: 1039-0731