

LI 2024/5 -



Fringe Benefits Tax Assessment (Adequate Alternative Records – Living-Away-From-Home – Maintaining an Australian Home) Determination 2024

I, Ben Kelly, Deputy Commissioner of Taxation, make the following determination.

Dated 28 February 2024

Ben Kelly
Deputy Commissioner of Taxation

Contents

1 Name	1
2 Commencement	1
3 Authority	1
4 Definitions	1
5 Specified matters	1
6 Adequate alternative records	2

1 Name

This instrument is the *Fringe Benefits Tax Assessment (Adequate Alternative Records – Living-Away-From-Home – Maintaining an Australian Home) Determination 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 April 2024.	1 April 2024.

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 123AA of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 136 of the Act, including the following:

- (a) living-away-from-home allowance fringe benefit;
- (b) unit of accommodation.

In this instrument:

Act means the *Fringe Benefits Tax Assessment Act 1986*.

5 Specified matters

- (1) For the purposes of subsection 123AA(2) of the Act, the following matters are specified:
- (a) the FBT year ending 31 March 2025 and all subsequent FBT years;
 - (b) the statutory evidentiary document consisting of the declaration referred to in paragraph 31F(1)(a) of the Act;
 - (c) the class of persons described in subsection 5(2); and
 - (d) the alternative records described in section 6.

-
- (2) The class of persons described for the purposes of paragraph 5(1)(c) are employers that are either reducing the taxable value of a living-away-from-home allowance fringe benefit described in section 31 of the Act, or that have provided an exempt accommodation expense payment benefit described in section 21 of the Act or an exempt residual benefit described in subsection 47(5) of the Act, in circumstances where:
- (a) the employer provided an employee with a living-away-from-home allowance fringe benefit, an exempt accommodation expense payment benefit, or an exempt residual benefit consisting of the use of a unit of accommodation in a year of tax;
 - (b) the employee maintained a home in Australia such that they satisfy section 31C of the Act;
 - (c) the benefit relates to the first 12 month period that the employee's duties of employment require them to live away from the place in Australia where they usually reside when in Australia such that they satisfy section 31D of the Act;
 - (d) the employer was not given a declaration that satisfies the requirements of paragraph 31F(1)(a) and subsection 31F(2) of the Act; and
 - (e) the employer relies on the adequate alternative records provision contained in subsection 123AA(1) of the Act.

6 Adequate alternative records

- (1) Records are adequate alternative records for the purposes of paragraph 5(1)(d) if they are written in English and contain the following information:
- (a) the name of the employee who received the benefit;
 - (b) the address of the place in Australia where that employee usually resides when they are in Australia;
 - (c) confirmation that, in respect of the usual place of residence described at paragraph (b):
 - (i) the employee or their spouse has an ownership interest in the unit of accommodation;
 - (ii) the residence continues to be available for the employee's immediate use and enjoyment during the period that their duties of employment require them to live away from it; and
 - (iii) it is reasonable to expect that the employee will resume living at the residence when their duties of employment no longer require them to live away from it;
 - (d) the dates (inclusive) that the employee's duties of employment required them to live away from the usual place of residence described at paragraph (b); and
 - (e) the address of each place the employee actually resided at when their duties of employment required them to live away from the usual place of residence described at paragraph (b).
- (2) The information specified in subsection 6(1) may be contained in:
- (a) any type of record; and

(b) any number of records.