



Tax Insights

Fringe benefits tax – Record keeping changes

Snapshot

In the 2020-21 Budget the Government announced that legislation would be introduced to reduce FBT record keeping compliance costs for employers who maintain good corporate records.

On 9 September 2022, the Government has released a series of exposure drafts designed to simplify FBT record keeping for employers who maintain good corporate records.

The proposed legislation and regulations will give the Commissioner the power to modify, by legislative instrument, existing FBT record-keeping obligations. This will allow employers to rely on existing corporate records where the Commissioner considers the alternative records adequate, instead of existing employee declarations and other prescribed records.

The draft legislation and instruments are as follows.

- **Treasury Laws Amendment (Measures for Consultation) Bill 2022: FBT record keeping**
Amends the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) to allow employers the option, to rely on adequate alternative records (as determined by the Commissioner); or keep and retain the designated statutory evidentiary documents in the approved form.
- **Fringe Benefits Tax Assessment - Adequate Alternative Records (Travel Diaries) Determination 2022**
Outlines the adequate alternative records the Commissioner will accept as a substitute for a "travel diary" required under the FBTAA.
- **Fringe Benefits Tax Assessment - Adequate Alternative Records (Relocation Transport) Standard 2022**
Outlines the adequate alternative records the Commissioner will accept as a substitute for an employee declaration in respect of expense payment fringe benefits in respect of the relocation transport reduction in taxable value under s61B of the FBTAA.

Provided the bill receives Royal Assent by 31 March 2023, it is expected that the measures will be first effective from the FBT year commencing 1 April 2023.

If the Commissioner deems the alternative records adequate, time spent by employers on FBT record keeping will substantially decrease.

Exposure draft legislation, Treasury Laws Amendment (Measures for Consultation) Bill 2022: FBT record keeping, and associated draft explanatory material, have been released for public consultation. Comments can be provided on the draft legislation and instruments up until 30 September 2022.

The two issues specifically targeted in this tranche include 'Travel Diary' and 'Relocation Transport' recordkeeping.

Travel diary

Under current legislation if an employer sends an employee overseas or to another location within Australia that exceeds 5 nights away from home and is not wholly for business purposes, the employee is required to keep a detailed travel diary which illustrates the nature, dates and times of the activities undertaken whilst on their trip. With the proposed new legislation, if the employer keeps detailed records through their corporate travel provider and internal systems that specify the purpose of travel, transport taken, hotels used and the schedule, they will be able to use these existing corporate records to complete their FBT return. As a result, the employees will no longer have to keep a travel diary.

Relocation transport

Regarding 'Relocation Transport', currently employees who are relocated for a project are currently required to complete a declaration which specifies that they are maintaining a home and must provide details about their home and their temporary location. With the proposed new legislation, an employer will be able to rely on their existing records and will no longer require employee declarations as evidence of living away from home.

With these legislative changes employers will be able to reduce record keeping compliance costs whilst also being able to streamline their FBT Return process and produce similar compliance outcomes.

Comments

Background

- FBT is frequently cited by taxpayers as a tax with a high administrative burden compared to the revenue it collects.
- In 2018 the Board of Taxation was asked by the Government to review costs undertaken by employers when complying with FBT laws. The study collected data on these compliance costs to help understand where these costs originate from and how they could be reduced. The Board produced a report in early 2019-20 which contained advice and recommendations on compliance cost improvements.
- Following the Board of Taxation Report, the 2020-21 Budget announced FBT record keeping changes as a cutting red tape measure for businesses. The ATO then consulted with taxpayers and industry groups to understand the specific types of declarations used and data held by businesses that could replace declarations by way of corporate records.

Impact on taxpayers

- The measure is a welcome provision to continually reduce the compliance costs for taxpayers of complying with FBT.
- Taxpayers' administrative burdens will reduce, both in terms of the burden on tax and finance staff and the burden on employees of complying with declaration requirements. The new record keeping requirements will create simpler obligations for the employer. With employees no longer needing to create separate documents, the chances of duplicating records will be reduced which will lead to cleaner data during the return.
- We would also welcome further changes in relation to other record keeping obligations, such as LAFHA declarations and vehicle logbooks, however these matters are not addressed via the 9 September 2022 announcement.
- However, in relation to travel diaries we note that the information required to be maintained within normal business records is the same as that which would otherwise be required to be maintained in a separate travel diary. There is no relief from the overall information required to be maintained – it is simply the form that the information is recorded.
- Similarly in relation to the relocation transport, using an employee's car, the same information is required to be maintained by the employer rather than in a separate formal declaration by the employee.
- Taxpayers will need to consider how their existing HR and finance data will facilitate the ability to collect appropriate and sufficient corporate records to replace employee declarations. Tax managers being involved in organisational systems changes such as ERPs will be important to collect the information required.
- This measure will only reduce part of the compliance costs of FBT. Taxpayers should continually think holistically about the processes and technology dedicated towards FBT in order to streamline the administrative burden and provide better organisation insights into employee cost drivers.

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