

DISCUSSION PAPER

FRINGE BENEFITS TAX REPORTING EXCLUSION FOR POOLED OR SHARED CARS

Background

1. The Government announced in its final response to the *Report of the Taskforce on Reducing Regulatory Burdens on Business — Rethinking Regulation* that it agreed in principle to a fringe benefits tax (FBT) reporting exclusion for pooled or shared cars with details to be finalised through consultation.

Purpose

2. The purpose of this paper is to set out the proposed treatment of pooled or shared cars within the FBT law as per the Government's announcement. The principles outlined in this paper have not received Government approval and are obviously not yet law, and consequently should not be relied upon in any way.

Car benefits

3. Section 7 of the *Fringe Benefits Tax Assessment Act 1986* explains when a car benefit may arise. In general, a car benefit will arise on any day where a car held by a provider is used by an employee for private purposes, or made available for use to an employee for private purposes.
4. A car is held by a provider if that person owns or leases it, or if it is otherwise made available to that person. A provider may be an employer, or an associate of the employer, or a third party that provides the car under an arrangement.
5. The taxable value of a car fringe benefit is calculated using either the operating cost method or the statutory formula method. An employer may elect to use the operating cost method for a particular car, however if no election is made in respect of a car then the statutory formula method will apply.

Reporting requirement

6. Employers are required to record on payment summaries the grossed-up taxable value of certain fringe benefits (other than excluded fringe benefits) provided to an employee during the FBT year, where the taxable value of the benefits provided exceeds \$1,000 (\$2,000 from 1 April 2007).
7. An employee's reportable fringe benefits amount (that is, the grossed-up taxable value of certain fringe benefits recorded on the employee's payment summary) is used to determine a taxpayer's entitlement to certain income-tested surcharges, benefits and obligations.

Proposed criteria for a pooled or shared car

8. It is proposed that for the purposes of the FBT reporting exclusion, a pooled or shared car is a car:
 - held by a provider which is used, or available for use, by more than one employee for private purposes during the FBT year; and
 - where the private use of that car gives rise to a car fringe benefit in relation to that car for more than one employee during the FBT year.
9. For example, a car is held by an employer of three employees. The employees are allowed to drive the car to and from work each day (which in this instance is considered to be private use), a privilege they share equally between them.
10. As the car is used by more than one employee for private purposes during the FBT year, and as the private use of that car gives rise to a car fringe benefit in relation to that car for more than one employee during the FBT year, the car is a pooled or shared car.

Cars that will not satisfy the proposed criteria

Application of the minor benefits exemption

11. A car held by a provider will not be considered to be a pooled or shared car if because of the application of the minor benefits exemption, a car fringe benefit in relation to that car does not arise for more than one employee during the FBT year. This is despite the car being used for private purposes, or available for use for private purposes, by more than one employee during the FBT year.
12. For example, a car held by an employer is used for private purposes by two employees. During the FBT year, the car is almost exclusively used for private purposes by the first employee, and occasionally used for private purposes by the second employee. The private use of the car by the second employee was determined to be a minor benefit, resulting in the second employee receiving no car fringe benefit in relation to that car for the FBT year. The private use of the car will only be a car fringe benefit for the first employee for the FBT year.
13. As the private use of the car only resulted in a car fringe benefit in relation to that car for one employee during the FBT year, the car is not a pooled or shared car, despite being used by more than one employee for private purposes during the FBT year.

Pooled or shared for business purposes only

14. A car held by a provider will not be considered a pooled or shared car if it is used by more than one employee for business purposes, but is only used or available for use by one employee for private purposes.

15. For example, a car held by an employer is used for business purposes by five employees, but is only used for private purposes by one employee. The use of the car for business purposes is not considered a car benefit. As such, only the employee who used the car for private purposes will receive a car fringe benefit for the FBT year.
16. As the car is only used by one employee for private use during the FBT year, and as the private use of the car resulted in a car fringe benefit in relation to that car for only one employee during the FBT year, the car is not a pooled or shared car.

Application

17. It is proposed that car fringe benefits arising from pooled or shared cars be excluded from the FBT reporting requirement, with effect from 1 April 2007. Car fringe benefits arising from pooled or shared cars provided on or after this date will not be required to be recorded on the payment summaries of affected employees.
18. Employers will still be required to calculate and pay tax on the taxable value of any car fringe benefits provided in relation to pooled or shared cars during the FBT year, as per current arrangements.

Comments

19. The cut-off date for comments in relation to this discussion paper is Friday 20 October 2006. Please direct all comments to:

The Manager
Individuals and Exempt Tax Division
ietdconsultation@treasury.gov.au
20. Queries in relation to this discussion paper can be directed to Michael Tempany, Individuals and Exempt Tax Division, on (02) 6263 3247.