

## **Fringe benefits remote areas ( housing benefits )**

In ongoing discussions with many industry and community groups throughout Wa the issue Housing is often raised as a critical factor in attracting and retaining staff to regional areas .

I believe there is an anomaly in the sections of the FBT act below that creates a bias towards the provision of rental properties over ownership in remote areas. This is because the concession is available at 100 % on rentals where as the provision on the loan fringe benefit interest to assist in purchasing a home has only a 50 % concession . Even when the 50 % concession is applied it has little benefit as the balance is taxed at 46.5 % after

This situation only adds to increased rental costs in remote areas and a higher turnover of staff who would be more settled in their own home . In some regional and remote areas ( as defined by the Act ) have a lower average house cost which assists first time buyers into the market.

Below is listed

1. Definitions from Australian Taxation office
2. Legislation from the Fringe benefits Act
3. worked example from Interpretive decision from the Australian Tax Office

### ***Current legislation allows***

Employers may provide a remote area housing benefit to employees if:

- the employee's accommodation is in a remote area
- the employee's usual place of employment is in a remote area, and
- it is necessary for the employer to provide accommodation to employees because:

– the nature of the employer's business is such that employees are likely to move

frequently from one residential location to another, or

– there is not sufficient suitable residential accommodation otherwise available in the

area in which the employee is employed, or

– it is customary in the employer's industry to provide free or subsidised housing to employees.

The accommodation could be in a:

- house, flat or home unit
- hotel, motel, guesthouse, bunkhouse
- caravan or mobile home, or
- ship or other floating structure.

### **Remote area is defined as**

For most employers, accommodation is in a remote area if it is not near an urban centre.

It must be at least 40 kilometres from a town of 14 000 or more people and more than

100 kilometres from a town of 130 000 or more people (population figures based on the

1981 Census).

### **SECTION 58ZC EXEMPT BENEFITS - REMOTE AREA HOUSING BENEFITS**

#### **58ZC(1) Remote area housing benefit to be exempt.**

A housing benefit that is a remote area housing benefit is an exempt benefit.

#### **58ZC(2) What constitutes remote area housing benefit.**

A housing benefit in relation to an employer for a year of tax and for a unit of accommodation, being a benefit provided to an employee of the employer in respect of the employee's employment, is a *remote area housing benefit* if:

(a) during the whole of the tenancy period, the unit of accommodation was located in a State or internal Territory and was not at a location in, or adjacent to, an eligible urban area; and

**(b)** during the whole of the tenancy period, the recipient was a current employee of the employer and the usual place of employment of the recipient was not at a location in, or adjacent to, an eligible urban area; and

**(c)** (Repealed by No 77 of 2005)

**(d)** it would be concluded that it was necessary for the employer, during the year of tax, to provide, or to arrange for the provision of, residential accommodation for employees of the employer because:

**(i)** the nature of the employer's business was such that employees of the employer were liable to be frequently required to change their places of residence; or

**(ii)** there was not, at or near the place or places at which the employees of the employer were employed, sufficient suitable residential accommodation for those employees (other than residential accommodation provided by or on behalf of the employer); or

**(iii)** it is customary for employers in the industry in which the recipient was employed during the tenancy period to provide residential accommodation for their employees free of charge or for a rent or other consideration that is less than the market value of the right to occupy or use the accommodation concerned; and

**(e)** the recipients overall housing right was not granted to the recipient under:

**(i)** a non-arm's length arrangement; or

**(ii)** an arrangement that was entered into by any of the parties to the arrangement for the purpose, or for purposes that included the purpose, of enabling the employer to obtain the benefit of the application of this section.

## **SECTION 60 REDUCTION OF TAXABLE VALUE - REMOTE AREA HOUSING**

### **60(1) [Recipient of loan fringe benefit]**

Where:

(a) the recipient of a loan fringe benefit in relation to an employer in relation to a year of tax is an employee of the employer;

(b) the loan is a remote area housing loan connected with a dwelling; and

(c) the recipient occupied or used the dwelling as his or her usual place of residence during a period in the year of tax (in this section referred to as the "**occupation period**") during which the recipient was under an obligation to repay the whole or a part of the loan;

the amount that, but for this subsection, would be the taxable value of the fringe benefit in relation to the year of tax shall be reduced by 50% of so much of that amount as relates to the occupation period.

# ATO Interpretative Decision

ATO ID 2003/157

## Fringe Benefits Tax

### Remote area housing: reduction of taxable value - remote area housing loan interest

FOI status: may be released

Status of this decision: Decision Current



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## Issue

Is the employer entitled to claim a 50% reduction in the taxable value of the expense payment fringe benefit, as it relates to interest in respect of a remote area housing loan, pursuant to subsection 60(2) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA)?

## Decision

Yes, because the expense payment fringe benefit is a reimbursement of the employee's interest incurred in relation to the employee's remote area housing loan.

## Facts

The employee owns land on which there is a house. The employee lives in the house which is his or her usual place of residence.

The employee has a housing loan with a bank. The loan was entered into to enable the employee to purchase the land and house.

The employee is a current employee of the employer. The dwelling is situated in a 'remote area'. The employee works in a 'remote area'. In the employer's industry it is customary to provide 'housing assistance' to employees.

The loan is a 'remote area housing loan connected with a dwelling' as required by paragraph 60(2)(b) and subsection 142(1) of the FBTAA.

The employee incurs \$5,000 interest in relation to the housing loan. The employer reimburses the full amount of the \$5,000 interest expense incurred. This reimbursement is an 'expense payment fringe benefit' as defined in subsection 136(1) of the FBTAA.

There is no 'recipients contribution' made by the employee to the employer.

Paragraph 60(2)(d) of the FBTAA is about not allowing non-arms length arrangements or arrangements entered into for the purposes of obtaining the tax concessions available under section 60. Paragraph 60(2)(d) does not apply to this arrangement.

### **Alternative facts**

The facts as above continue to apply with the following exception.

Instead of the employer reimbursing the full amount of the \$5,000 interest expense incurred, the employer only reimburses (in part), half of the \$5,000 interest expense incurred. This reimbursement, \$2,500, is an 'expense payment fringe benefit' as defined in subsection 136(1) of the FBTAA.

### **Reasons for Decision**

The recipient of the \$5,000 (or \$2,500) expense payment fringe benefit is the employee of the employer., Pparagraph 60(2)(a) of the FBTAA is satisfied.

'Recipients expenditure', as defined in section 136(1) of the FBTAA means, in relation to an 'expense payment benefit', the expenditure incurred by the recipient as described in paragraph 20(b) of the FBTAA.

The expenditure incurred by the recipient as described in 20(b) of the FBTAA is the amount of the interest expense incurred by the employee, \$5,000.

The loan is a 'remote area housing loan connected with a dwelling' as required by paragraph 60(2)(b) and subsection 142(1) of the FBTAA.

Accordingly, the \$5,000 interest expense is 'recipients expenditure' which 'is in respect of a remote area housing loan connected with a dwelling'. Paragraph 60(2)(b) of the FBTAA is satisfied.

The employee lives in the dwelling as his or her usual place of residence. Paragraph 60(2)(c) of the FBTAA is satisfied.

Paragraph 60(2)(d) of the FBTAA does not apply.

Subsection 60(2) of the FBTAA is satisfied. Accordingly, the employer is entitled to a 50% reduction of the taxable value in the expense payment fringe benefit.

## Example calculation

Based on the facts (and alternative facts) contained above, the reduction in taxable value of the expense payment fringe benefit would be calculated as follows:

	\$(facts)	\$(alternative facts)
Expense payment fringe benefit	5,000	2,500
Less 'recipients contribution'	nil	nil
Taxable value before reduction	5,000	2,500
Less subsection 60(2) reduction, 50% of taxable value, (50% x \$5,000 or 2,500)	2,500	1,250
Reduced taxable value	2,500	1,250

**Date of decision:** 14 January 2003

To complete the calculation you would take the reduced taxable value of \$ 2500 x 1.8692 ( Type 2 aggregate amount ) = \$ 4673 @ 46.5 % ( FBT tax rate ) = Tax payable \$ 2173 + benefit \$ 2500 gives a **total cost of \$ 4673**. To provide a \$2500 benefit .

Whereas if this was a *remote area housing benefit* the \$ 2500 cost would be all that is outlaid .

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