TaxWise®

Business News

INTEGRA PARTNERS
Chartered Accountants

June 2021

Helping businesses recover

Tax depreciation incentives to help businesses recover

In 2020, the Government introduced tax depreciation incentives to help businesses recover from the impact of the COVID-19 pandemic.

To help eligible business entities understand which tax depreciation incentives are available, the ATO published a useful snapshot to explain the depreciation incentives that may apply and when businesses could consider using them (See attached at the end of this document).

What incentives are available?

The tax depreciation incentives that are available to eligible businesses are:

- Temporary full expensing;
- Instant asset write-off; and
- Accelerated depreciation ("Backing business investment").

Key points to note:

- The instant asset write-off and accelerated depreciation (i.e. the Backing Business Investment measure) are available only where the asset is first used, or installed ready for use, by 30 June 2021, noting that for the instant asset write-off, the asset must have been acquired by 31 December 2020;

- Temporary full expensing is currently available until 30 June 2022, but the Government announced in the Federal Budget 2021–22 that it proposes to extend this by 12 months by 30 June 2023;

- Temporary full expensing is available to businesses with an aggregated turnover of less than $5 billion a year. The instant asset write-off and accelerated depreciation are available only to businesses with an aggregated turnover of less than $500 million a year. The instant asset write-off is not available to small businesses entities (aggregated turnover of less than $10 million a year) that do not choose to use the simplified depreciation rules;

- Accelerated depreciation applies only to new assets. Temporary full expensing is available for second-hand assets only where the aggregated turnover is less than $50 million. The instant asset write-off can be used for second-hand assets as well as new assets;

- Under the instant asset write-off, the asset must cost less than $150,000 – there is no cost restriction under temporary full expensing or accelerated depreciation;

- Businesses can opt out of temporary full expensing and accelerated depreciation (but not the instant asset write-off) on an asset-by-asset basis. However, small business entities (aggregated turnover of less than $10 million) cannot choose not to fully expense their general small business pool balance on 30 June 2021.

So, if you are contemplating buying a depreciating asset and you want an immediate deduction for the full cost of the asset in the 2020–21 income year, you will need to consider:

- your eligibility for the instant asset write-off rules;
- the accelerated depreciation measure;
- the temporary full expensing measure;
- the date the asset is acquired and first used or installed ready for use;
- the asset's cost; and
- the aggregated turnover of the business.

Assuming the proposed extension to the temporary full expensing to 30 June 2023 is legislated, assets acquired or first used or installed ready for use from 1 July 2023 will be depreciated under the uniform capital allowance system, or the simplified depreciation rules if the taxpayer is a small business entity and chooses to apply these rules.

Small business tax time errors

It is almost the end of the current tax year (2020–21) and the start of a new one (2021–22). It may not be long before you start thinking about lodging your 2020–21 tax return.

If you anticipate a tax refund, the quicker you lodge the return the quicker you will get that refund. But if you believe you will have to pay more tax (i.e. in addition to the PAYG instalments you have paid), then it might be worth delaying the return as long as possible.

If you don't use a tax adviser to lodge your return, you will have to do it by 1 November 2021 (you get an extra day this year because 31 October is a Sunday). Of course, if you use your tax adviser to lodge your return, you may have until May 2022 to complete it.

The ATO has identified the most common errors small businesses make when completing their tax returns. They are failing to:

- declare all income – this includes cash and online sales, dividends, interest, capital gains and one-off transactions such as selling equipment or other capital items;
- account for private use of business funds or assets, such as trading stock taken for private use and shareholder loans; and
- keep all required records or have adequate record keeping systems.

How to work out PAYG instalments

When you pre-pay your income tax using pay as you go (PAYG) instalments, you can usually choose between 2 options to work out how much you pay:

- Option 1 – Using the instalment amount: The ATO calculates the amount of each instalment from information reported on your latest tax return. This is the simplest option as you don't need to work anything out.

- Option 2 – Using the instalment rate: You work out your instalment amount yourself using the instalment rate the ATO provides and your instalment income.

Option 1 – Using the instalment amount

You can use the instalment amount option if you are an individual (including sole traders), a trust or a super fund that:

- is an annual payer; or
- has business and/or investment income of $2 million or less.

A company can use the instalment amount option if it:

- is an annual payer;
- has business and/or investment income of $2 million or less; or
- is a small business entity with an aggregated turnover of less than $10 million a year.

From 1 July 2021, business entities with an aggregated turnover of more than $10 million but less than $50 million a year will also be able to use the instalment amount option to pay PAYG instalments.

Option 2 – Using the instalment rate

All taxpayers can use this option, although some taxpayers must use it (your tax adviser will know).

The advantage of using the instalment rate option is that your payments are based on your income as you earn it (e.g. in the quarter or month just gone). This helps with your cash flow management. For example, if your income decreases in a quarter, you apply the instalment rate to that lower income and therefore pay a lower instalment amount.

Varying PAYG instalments

You can vary your instalments multiple times throughout the year. Be careful not to underestimate your PAYG instalment amount, income or rate as you could be subject to interest (the GIC) and penalties if the varied instalment turns out to be too low (although the ATO will not apply penalties or charge interest to varied instalments relating to the 2020–21 financial year if you have made your best attempt to estimate your end of year tax liability).

Simplified trading stock rules

Under the simplified trading stock rules, you don't have to:

- conduct a formal stocktake;
- account for the changes in your trading stock's value.

You can use the simplified trading stock rules if you:

- are a small business with an aggregated turnover of less than $10 million a year (or from 1 July 2021, with an aggregated turnover of at least $10 million but less than $50 million a year); and

- reasonably estimate that the value of your trading stock changed by less than $5,000 in the year.

Electronic invoicing

The Government will spend $15.3 million to enhance the value of electronic invoicing to help businesses reduce costs and increase productivity. This is part of the Government's Digital Economy Strategy.

According to the ATO website, the Australian Peppol Authority (ATO) and Treasury will deliver activities, including:

- pilots to gain insights into the use of e-invoicing and e-procurement;
- educational activities to raise business awareness;
- working with payment providers (for example, EFTPOS, Visa, Mastercard, NPP Australia) to explore opportunities on how e-invoicing can complement the payment experience for business; and
- further consultation on potential regulatory and non-regulatory ways to accelerate e-invoicing adoption.

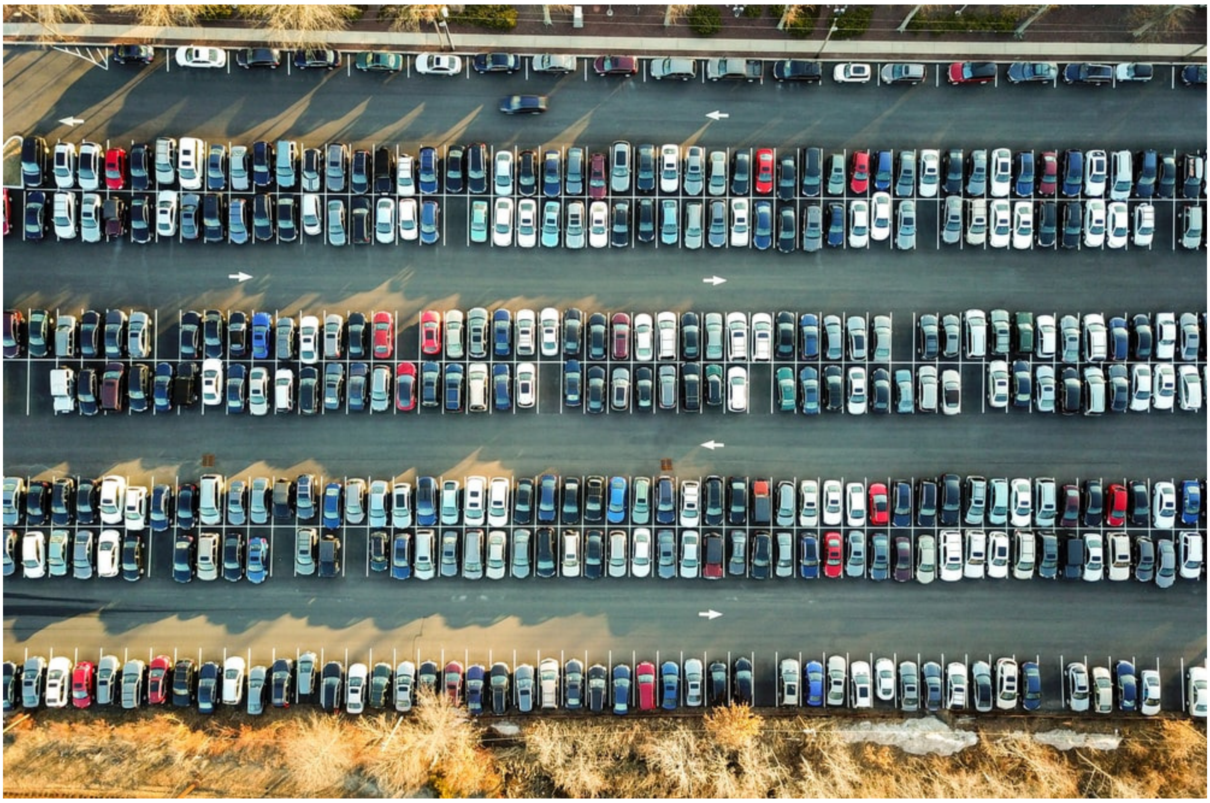
R&D applications – new online portal

A new customer portal has been launched to make it easier for companies to manage their applications for the Research and Development (R&D) tax incentive.

Applications can be submitted via the portal from 5 July 2021, but you can log in now to become familiar with the new portal and start drafting your application.

The portal's web address is https://incentives.business.gov.au.

In the future, you'll also be able to use the portal to apply for and manage your Advance and Overseas Finding applications, request to withdraw or vary your R&D tax incentive application, apply for an extension of time, and even check the status of your submitted applications.



FBT: Do you provide car parking for employees?

If you provide car parking for your employees, you may have to pay fringe benefits tax (FBT) on those benefits.

A car parking fringe benefit will generally arise if an employer provides car parking to an employee and various conditions are satisfied, including:

- the car is parked at premises owned or leased by, or otherwise under the control of, the provider (usually the employer);
- the car is parked for a total of more than 4 hours between 7am and 7pm on any day of the week;
- the car is parked at or near the employee's primary place of employment on that day;
- the car is used by the employee to travel between home and work (or work and home) at least once on that day;
- there is a commercial parking station that charges a fee for all-day parking within one kilometre of the premises on which the car is parked;
- at the beginning of the FBT year (1 April 2021 for the current FBT year), the commercial parking station fee for all-day parking was more than the car parking threshold ($9.25 for the current FBT year) – provided the fee is not substantially greater or less than the average (over a 4-week period) of the lowest fee charged to

members of the public for all-day parking.

A recent court case decided that Virgin Airlines did not have to pay FBT on car parking provided at airports to its flight and cabin crew, primarily because their primary place of employment was the aircraft they flew on – and clearly an employee's car was not parked at or near the aircraft.

Exemptions

Car parking benefits are exempt from FBT where the benefits are provided:

- by employers who meet the conditions of the small business car parking benefits exemption (see below);
- by certain research, education, religious and charitable institutions; and
- for employees with a disability (irrespective of the type of employer).

Small business car parking benefits exemption

The small business car parking benefits exemption applies if the following conditions are satisfied:

- the parking is not provided in a commercial car park; and
- for the last income year before the relevant FBT year, either the employer's
- gross total income was less than $10 million or their turnover was less than $10 million (less than $50 million for benefits provided on or after 1 April 2021).

This exemption is not available to government bodies, listed public companies, or subsidiaries of listed public companies.

In 2019, the ATO changed its views on aspects of the car parking fringe benefits rules, especially in relation to what qualifies as a commercial car parking station. The changed views will not apply until 1 April 2022. Talk to us before then if you provide car parking for employees.

FBT rates and thresholds

Various rates and thresholds relevant for calculating FBT are updated on 1 April each year. Updated figures for the current FBT year (i.e. 2021–22) include:

- record-keeping exemption threshold – $8,923 (previously $8,853);
- statutory or benchmark interest rate – 4.52% (previously 4.80%);
- car parking threshold – $9.25 (previously $9.15).

The cents-per-km rates (for motor vehicles other than cars) for the 2021-22 FBT year are:

0-2500cc	Over 2500cc	Motor cycles
56c	67c	17c

These are unchanged from the 2020–21 FBT year.

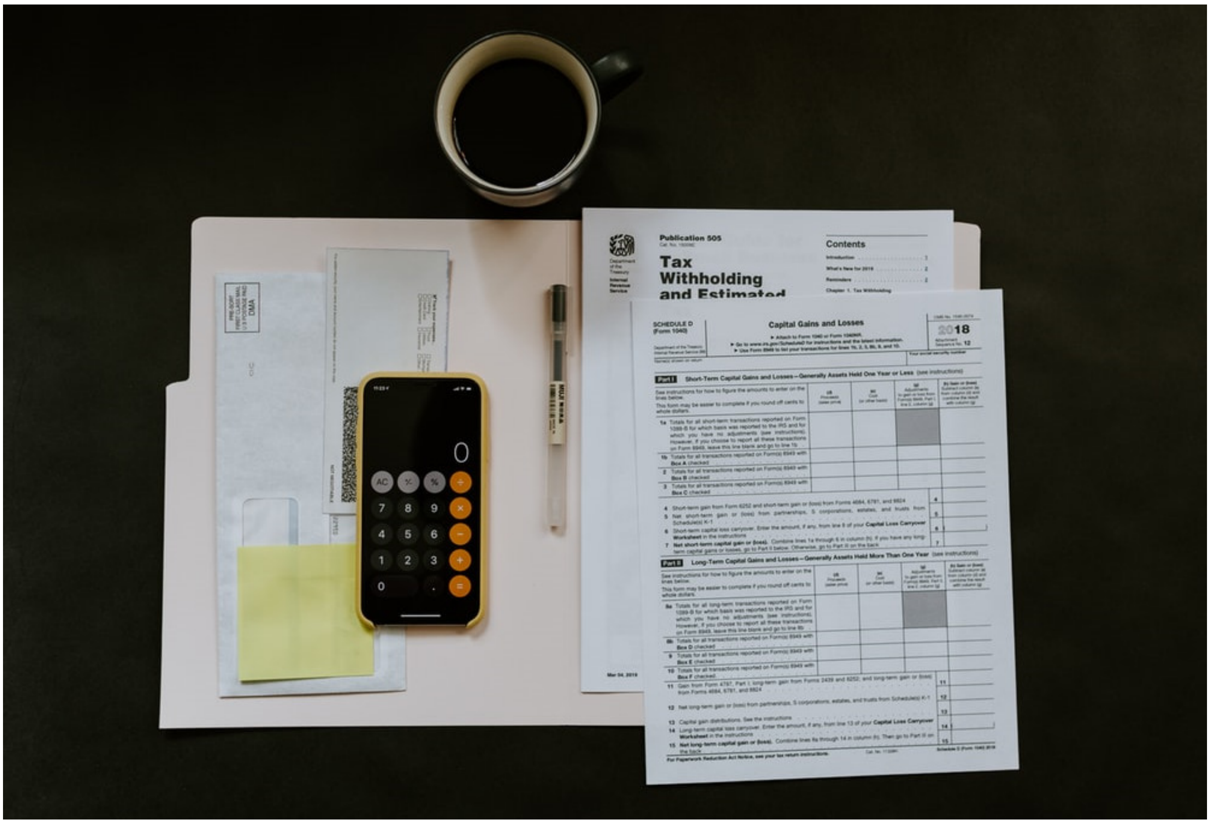
Weekly food and drink expenses

The weekly food and drink expenses for the 2021–22 FBT year that the ATO accepts as reasonable for a living-away-from-home allowance (LAFHA) paid to employees living away from home within Australia are:

	Per week $
1 adult*	283
2 adults	425
3 adults	567
1 adult and 1 child	354
2 adults and 1 child	496
2 adults and 2 children	567
2 adults and 3 children	638
3 adults and 1 child	638
3 adults and 2 children	709
4 adults	709
Each additional adult	142
Each additional child	71

**A person is considered an adult for LAFHA purposes if they were 12 years or older before the beginning of the FBT year.*

The weekly food and drink expenses for the 2021–22 FBT year that the ATO accepts as reasonable for a living-away-from-home allowance (LAFHA) paid to employees living away from home outside of Australia are set out in Taxation Determination TD 2021/3 (see attached at the end of this document).



Year-end tax tips

Reduce your tax bill

If you are a sole trader or a partner in a partnership, or your business is carried on through a trust and you are a beneficiary, here are some key amounts:

- $37,501 – the low income tax offset (maximum $700) starts to phase out;
- $45,001 – the 19% tax rate increases to 32.5%;
- $90,001 – the maximum low and middle income tax offset ($1,080) starts to phase out;
- $120,001 – the 32.5% tax rate increases to 37%;
- $180,001 – the 37% tax rate increases to 45%.

$90,001 (singles) and $180,001 (families) are also relevant if working out if you qualify for the private health insurance tax offset (or insurance premium reduction) or are liable for the Medicare levy surcharge – but add $1,500 for each dependent child after the first one.

Defer assessable income

If your taxable income for the income year is approaching any of those thresholds, you might want to consider deferring assessable income so your taxable income for the year will remain below the relevant threshold.

For example, you could delay issuing an invoice so you won't be paid until after 30 June – that way, the income will be taxed next year. This won't work if you account for income on an accruals basis – in that case, delay issuing the invoice. Of course, cash flow issues might mean you want to be paid asap.

If you are in the process of selling property and the profit will be taxable as a capital gain, you could defer the sale until the next income year – but remember that the liability to pay CGT arises when you exchange contracts and not on settlement.

Increase deductions

Another way to keep taxable income below a relevant threshold is to increase deductions. For example, you could bring forward the purchase of one or more depreciating assets (new assets are deductible outright under temporary full expensing). An immediate deduction is also available for start-up costs and certain prepaid expenses.

Charitable donations are a good way to increase your deductions. In certain circumstances, you can claim a deduction if you donate trading stock. Don't forget to ask for a receipt.

Private company loans

Shareholders of private companies operating businesses may dip into the company's coffers to fund their lifestyle or other business interests. If you have done this, or are contemplating doing it, you need to be aware of what is known as a "Division 7A deemed dividend".

Division 7A of the *Income Tax Assessment Act 1936* contains the rules dealing with loans and and other payments by private companies to shareholders.

Under the rules in Division 7A, a cash advance to a shareholder will be treated as a taxable dividend in the hands of the shareholder, unless it is documented by a written loan agreement specifying certain matters, including the maximum term (e.g. 7 years if the loan is unsecured) and the minimum interest rate, which cannot be less than the benchmark rate. The benchmark rate for the current tax year (2020–21) is 4.52%.

Division 7A may also apply where a private company forgives a debt owed by a shareholder or certain benefits are provided to shareholders from trusts where a private company has an unpaid present entitlement (UPE) to the profits of the trust.

Payments, etc, to an associate of a shareholder (e.g. their spouse, child, sibling or parent) are treated the same as payments, etc, to the shareholder.

Division 7A *does not apply* to payments made to a shareholder (or an associate) in their capacity as an employee. FBT may apply instead.

Online services for sole traders

Sole traders with an ABN who use the ATO's online services for individuals now have access to improved functionality, making it easier for them to interact with the ATO online.

Useful new features now available include:

- requesting a refund or fund transfers between accounts;
- lodging super guarantee charge statements;
- sending secure messages;
- submitting STP (Single Touch Payroll) deferrals and exemptions; and
- lodging private ruling, objection and further information forms.

If you are managing other entity ABNs as well as your sole trader ABN, you should continue to use Online services for business when interacting with the ATO.

The black economy

The black economy is a complex, multi-faceted phenomenon operating across Australia's workplace relations, financial, welfare, procurement and migration systems.

Black economy behaviours include:

- demanding or paying for work cash-in-hand to avoid obligations;
- not reporting or under-reporting income;
- underpayment of wages;
- identity fraud;

- visa fraud and bypassing visa restrictions;
- ABN, GST, and duty fraud;
- dealing in illegal drugs and tobacco;
- sham contracting – presenting an employment relationship as a contracting arrangement;
- illegal phoenixing – liquidating and re-forming a business to avoid obligations (the ATO now has the discretion to retain tax refunds in relation to taxpayers engaging in phoenixing);
- money laundering; and
- dealing in counterfeit goods.

The ATO uses a range of education, engagement and enhanced enforcement activities to address the tax and superannuation aspects of the black economy.

The ATO's data and analytic systems, strategies and targeted approaches help it to:

- combat black economy behaviours – including under-reporting income and overclaiming expenses;
- ensure businesses meet their employer obligations when paying employees or contractors;
- address employers paying cash-in-hand, underpaying wages, failing to withhold tax or not contributing to super;
- address illegal phoenix activity – businesses liquidating and re-forming to avoid obligations;
- prevent tax fraud;
- deal with illicit tobacco, duty and excise evasion;
- target intermediaries and agents who enable behaviour; and
- prosecute the worst offenders.

myGov email scam

The ATO and Services Australia are warning the community about a new email impersonation scam that is doing the rounds. The fake emails claim to be from "myGov" and include screen shots of the myGovID app.

The email asks people to click a link to verify their identity using a "secure form" which takes them to a fake myGov page requesting personal identifying information and banking details.

ATO Assistant Commissioner Ben Foster said this new phishing scam contains classic warning signs that it is not legitimate, for example, asking people to click a link to confirm their details and spelling errors.

Affected by a natural disaster?

The ATO has reminded businesses and individuals affected by the NSW and South-East Queensland floods in March, and by bushfires in Western Australia and Cyclone Seroja, that it can help if they are having trouble meeting tax and super obligations. Depending on the particular circumstances, the ATO may:

- give extra time to pay a debt or lodge tax forms such as activity statements;
- help re-construct tax records that are lost or damaged;
- fast track refunds;
- set up a payment plan tailored to individual circumstances, including interest free periods;
- remit penalties or interest.

For more information about support available, visit ato.gov.au/disasters or phone 1800 806 218.

Note! Disaster recovery grant payments in relation to the storms and floods that occurred in February and March 2021 will be exempt from tax once the enabling legislation (presently in Parliament) becomes law.

COVID-19 and permanent establishments

Are you a foreign company with employees in Australia? The ATO has updated its guidance on whether the presence of employees in Australia, due to the impacts of COVID-19, may create a permanent establishment (PE) for tax purposes.

The ATO says that it will not apply compliance resources to determine if you have a PE in Australia if:

- you did not otherwise have a PE in Australia before the effects of COVID-19;
- the temporary presence of employees in Australia continues to solely be as a result of COVID-19 related travel restrictions;
- those employees temporarily in Australia will relocate overseas as soon as practicable following the relaxation of international travel restrictions; and
- you have not recognised those employees as creating a PE or generating Australian source income in Australia for the purpose of the tax laws of another jurisdiction.

This approach will apply until 31 December 2021.

What has Parliament been up to?

A recent Bill contains amendments that will:

- exempt employers from FBT if they provide training or education to a redundant, or soon to be redundant, employee in order to assist that employee gain new employment (this was announced in last year's Budget) – applies to benefits provided on or after 2 October 2021;

- extend the low and middle income tax offset for 12 months (this was announced in this year's Budget);

- exempt from CGT a granny flat arrangement if certain requirements are met, including that the individual having the granny flat interest has reached pension age or has a disability, and that the arrangement is in writing and is not of a commercial nature (this was announced in last year's Budget) – if the Bill becomes law by the end of June, the change will take effect on 1 July 2021, otherwise it will take effect on 1 July 2022;

- extend the operation of the junior minerals exploration incentive for a further 4 years (this was announced in this year's Budget); and

- ensure that New Zealand retains exclusive taxing rights over income derived by NZ sportspersons (and support staff) playing in cross-border-leagues where, due to COVID-19, they spend more than 183 days in Australia in a 12-month period.

Key tax dates

Date	Obligation
21 June 2021	May monthly BAS due
30 June 2021	Super guarantee contributions must be paid by this date to qualify for a tax deduction in 2020-21
14 July 2021	Issue PAYG payment summaries if not reporting through STP Finalisation declaration due if reporting through STP
21 July 2021	June monthly BAS due
28 July 2021	Lodge and pay June quarterly BAS Pay June quarterly PAYG instalment Employee super guarantee contributions due
1 Aug 2021*	Fuel tax credit rates change
14 Aug 2021*	PAYG withholding annual report due if not reporting through STP
21 Aug 2021*	July monthly BAS due
28 Aug 2021*	June quarter SG charge statement due Taxable payments annual report due
21 Sep 2021	August monthly BAS due
30 Sep 2021	Lodge annual TFN withholding report (trustee of a closely held trust)

*Next business day

DISCLAIMER
TaxWise® News is distributed by professional tax practitioners to provide information of general interest to their clients. The content of this newsletter does not constitute specific advice. Readers are encouraged to consult their tax adviser for advice on specific matters.

Economic stimulus measures

Australian Government
Australian Taxation Office

Interaction of tax depreciation incentives

In 2020 the government introduced measures to help businesses recover from the impacts of the coronavirus pandemic (COVID-19). Eligible business entities may want to know which tax depreciation incentive is right for them. This information explains the depreciation incentives that are available and when businesses could consider using them.

Temporary Full Expensing*	Instant Asset Write-Off – to 11 March 2020	Instant Asset Write-Off – from 12 March 2020	Backing Business Investment
■ Allows **full write-off** for eligible assets first held at or after Budget Time 6 October 2020 ■ 'Temporary' means it does not apply to assets first used or installed for taxable purposes after 30 June 2022 ■ For asset eligibility and exclusion rules, see **temporary full expensing** *As part of the Budget 2021–22, temporary full expensing is to be extended for another year. The measures announced as part of the Budget are not yet law. We will update this content once the extension is law.	■ Allows **full write-off** for eligible assets costing **less than $30,000** if first acquired at or after Budget Time 2 April 2019* ■ Assets must have been first used or installed for a taxable purpose between 2 April 2019 and 11 March 2020 ■ For asset eligibility and exclusion rules, see **instant asset write off** *Budget Time 12 May 2015 for small business entities using simplified depreciation	■ Allows **full write-off** for eligible assets costing **less than $150,000** if first acquired at or after Budget Time 2 April 2019* and on or before 31 December 2020 ■ Assets must have been first used or installed for a taxable purpose between 12 March 2020 and 30 June 2021 ■ For asset eligibility and exclusion rules, see **instant asset write off** *Budget Time 12 May 2015 for small business entities using simplified depreciation	■ Allows for an accelerated depreciation of eligible assets first held and first used or installed for a taxable purpose between 12 March 2020 and 30 June 2021 ■ For asset eligibility and exclusion rules, see **backing business investment**

Applying depreciation incentives

The general steps to apply depreciation incentives are:

- Identify if you are an eligible business by calculating your **aggregated turnover**
- Determine which incentive to apply. Only one incentive can apply for an asset. If more than one incentive could apply, the order of application is (subject to opt out choices)
  - **temporary full expensing**
  - **instant asset write-off**
  - **backing business investment**
  - **general depreciation rules**
- Take note of whether you can choose to **opt out** of an incentive.
- Determine when you first held and first used or installed each asset for a taxable purpose.
- Consider if any exclusions or specific limits may apply (such as the **car limit**), even if incentives are uncapped.

Full write-off:

- means deducting the taxable use proportion of the cost of an asset.
- may also be available for improvement costs for eligible assets. Refer to our more detailed guidance on **temporary full expensing** for information on when these costs can be claimed.

DE-30275

Interaction of tax depreciation incentives

Am I an eligible business?		Can I claim?			
Type	**Aggregated Turnover**	**Temporary full expensing** Asset first **held FROM 6 October 2020**	**Instant asset write-off** Asset first **used in business TO 11 March 2020**	**Instant asset write-off** Asset first **used in business FROM 12 March 2020**	**Backing business investment** Asset first **used in business FROM 12 March 2020**
SMALL BUSINESS **using simplified depreciation**	Less than $10m	YES ■ Full write-off (including the balance of a **small business pool**) ■ No cost restriction ■ **Cannot opt out**	YES ■ Full write-off ■ Asset cost < $30,000 ■ **Cannot** opt out	YES ■ Full write-off ■ Asset cost < $150,000 ■ **Cannot** opt out	YES ■ Accelerated Depreciation ■ No cost restriction ■ **Cannot opt out** ■ Second-hand assets excluded
SMALL BUSINESS not using simplified depreciation	Less than $10m	YES ■ Full write-off ■ No cost restriction ■ **Can opt out** (except for assets previously allocated to a **small business pool**)	NO ■ only eligible if using **simplified depreciation**	NO ■ only eligible if using **simplified depreciation**	YES ■ Accelerated depreciation ■ No cost restriction ■ **Can opt out** ■ Second-hand assets excluded
MEDIUM BUSINESS	$10m to less than $50m	YES ■ Full write-off ■ No cost restriction ■ **Can opt out**	YES ■ Full write-off ■ Asset cost < $30,000 ■ **Cannot** opt out	YES ■ Full write-off ■ Asset cost < $150,000 ■ **Cannot** opt out	YES ■ Accelerated depreciation ■ No cost restriction ■ **Can opt out** ■ Second-hand assets excluded
MEDIUM-LARGE BUSINESS	$50m to less than $500m	YES ■ Full write-off ■ No cost restriction ■ **Can opt out** ■ Second-hand assets excluded	NO	YES ■ Full write-off ■ Asset cost < $150,000 ■ **Cannot** opt out	YES ■ Accelerated depreciation ■ No cost restriction ■ **Can opt out** ■ Second-hand assets excluded
LARGE BUSINESS	$500m to less than $5bn **OR** satisfies the **Alternative Income Test**	YES ■ Full write-off ■ No cost restriction ■ **Can opt out** ■ Second-hand assets excluded ■ Further asset exclusions apply if you qualify under **Alternative Income Test**	NO	NO	NO

For more information, visit **ato.gov.au/bounceback**

Information is current as at 6 May 2021

Status: **legally binding**

Taxation Determination

Fringe benefits tax: reasonable amounts under section 31G of the *Fringe Benefits Tax Assessment Act 1986* for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit for the fringe benefits tax year commencing on 1 April 2021

Relying on this Determination

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Determination applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Determination. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Determination.

Table of Contents **Paragraph**

Ruling

1. This Determination sets out the amounts that the Commissioner considers reasonable under section 31G of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) for food and drink expenses incurred by employees receiving a living-away-from-home allowance (LAFHA) fringe benefit for the fringe benefits tax (FBT) year commencing on 1 April 2021.

2. Where the total of food and drink expenses for an employee (including eligible family members) does not exceed the amount the Commissioner considers reasonable, those expenses do not have to be substantiated under section 31G of the FBTAA. Where an employee receives a LAFHA fringe benefit, for the employer to reduce the taxable value of the fringe benefit by the exempt food component, the expenses must be either:

- equal to or less than the amount the Commissioner considers reasonable under paragraph 31G(1)(b), or
- substantiated in accordance with the requirements in subsection 31G(2).

3. If the total of an employee's food or drink expenses exceeds the amount the Commissioner considers reasonable, the substantiation provisions under section 31G of the FBTAA will apply.

Reasonable amounts for food and drink – within Australia

4. Table 1[1] sets out the weekly amounts the Commissioner considers to be reasonable food and drink amounts for a LAFHA paid to employees living away from home within Australia for the FBT year commencing on 1 April 2021. These amounts are for the total of food or drink expenses and include any amounts that may have been allowed for home consumption.

Table 1 – amounts of reasonable food and drink – within Australia

	Per week $
One adult	283
Two adults	425
Three adults	567
One adult and one child	354
Two adults and one child	496
Two adults and two children	567
Two adults and three children	638
Three adults and one child	638
Three adults and two children	709
Four adults	709

('Adults' for this purpose are persons who had attained the age of 12 years *before* the beginning of the FBT year.)

5. In relation to larger family groupings, the Commissioner accepts the reasonable food and drink amount based on the Table 1 figures plus:

- $142 for each additional adult, and
- $71 for each additional child.

[1] References to Tables 1, 2, 3 and 4 are to the tables in this Determination.

Reasonable amounts for food and drink – overseas

6. Tables 2, 3 and 4 set out the weekly amounts the Commissioner considers to be reasonable food and drink amounts for a LAFHA paid to employees living away from home outside Australia for the FBT year commencing on 1 April 2021. Table 2 sets out the cost group to which a country has been allocated. Table 3 sets out the reasonable amount for food and drink expenses for each cost group.

7. If the employee lives away from home in a country that is not shown in Table 2, the employee can use the amount for Cost Group 1 in Table 3.

Table 2 – list of countries

If a country is not listed in this table use the amount for Cost Group 1 in Table 3.

For the amounts that apply to each cost group see Table 3.

Country	Cost Group	Country	Cost Group
Albania	2	Croatia	3
Algeria	3	Cuba	3
Angola	4	Cyprus	4
Antigua and Barbuda	6	Czech Republic	3
Argentina	2	Denmark	6
Armenia	3	Dominican Republic	4
Austria	5	East Timor	4
Azerbaijan	3	Ecuador	4
Bahamas	6	El Salvador	3
Bahrain	5	Eritrea	4
Bangladesh	4	Estonia	4
Barbados	6	Ethiopia	3
Belarus	2	Fiji	3
Belgium	5	Finland	6
Bermuda	6	France	5
Bolivia	3	French Polynesia	6
Bosnia	2	Gabon	6
Brazil	3	Gambia	2
Brunei	3	Georgia	2
Bulgaria	3	Germany	5
Burkina Faso	3	Ghana	4
Cambodia	1	Gibraltar	4
Cameroon	4	Greece	4
Canada	4	Guatemala	4
Chile	3	Guyana	4
China	5	Hong Kong	5
Colombia	3	Hungary	3
Congo Democratic Republic	4	Iceland	6
Cook Islands	4	India	3
Costa Rica	4	Indonesia	3
Cote D'lvoire	5	Iran	1

Iraq	5	Philippines	3
Ireland	5	Poland	3
Israel	6	Portugal	4
Italy	5	Puerto Rico	5
Jamaica	4	Qatar	6
Japan	5	Russia	4
Jordan	6	Romania	3
Kazakhstan	2	Rwanda	3
Kenya	4	Saint Lucia	5
Korea	6	Saint Vincent	4
Kosovo	2	Samoa	4
Kuwait	5	Saudi Arabia	4
Kyrgyzstan	2	Senegal	4
Laos	3	Serbia	3
Latvia	4	Sierra Leone	3
Lithuania	3	Singapore	6
Luxembourg	5	Slovakia	4
Macau	5	Slovenia	3
Malawi	3	Solomon Islands	4
Malaysia	3	South Africa	2
Mali	3	Spain	5
Malta	4	Sri Lanka	3
Mauritius	4	Sudan	2
Mexico	3	Surinam	3
Monaco	6	Sweden	5
Morocco	4	Switzerland	6
Mozambique	3	Taiwan	5
Myanmar	3	Tanzania	3
Namibia	2	Thailand	4
Nepal	3	Tonga	3
Netherlands	5	Trinidad and Tobago	6
New Caledonia	5	Tunisia	2
New Zealand	4	Turkey	3
Nicaragua	3	Uganda	3
Nigeria	4	Ukraine	3
North Macedonia	2	United Arab Emirates	6
Norway	6	United Kingdom	5
Oman	6	United States of America	5
Pakistan	2	Uruguay	3
Panama	4	Vanuatu	4
Papua New Guinea	4	Vietnam	3
Paraguay	2	Zambia	2
Peru	4		

Table 3 – amounts by cost group

Cost group	Food and drink for one adult
1	$137
2	$201
3	$273
4	$346
5	$437
6	$537

8. Where the employee is accompanied by other family members while overseas, the reasonable food and drink amount per week for the family is worked out by multiplying the amount shown in Table 3 by the relevant factor in Table 4.

Table 4 – factors to apply for family groups – overseas

Family group	Factor
Two adults	1.5
Three adults	2.0
One adult and one child	1.25
Two adults and one child	1.75
Two adults and two children	2
Two adults and three children	2.25
Three adults and one child	2.25
Three adults and two children	2.5
Four adults	2.5

9. In relation to larger family groups, the Commissioner accepts the reasonable food and drink amounts can be increased:

- for each additional adult by a further 50% of the relevant single adult rate in Table 3, and
- for each additional child by a further 25% of the relevant single adult rate in Table 3.

Example 1 – calculation of reasonable amounts for food and drink – within Australia

10. *Jasper, his wife and their two children (both under 12 years of age) temporarily move to Brisbane from Sydney for a period of five months (from 1 May 2021 to 30 September 2021, which is 21 weeks and 6 days) for Jasper to work on a project for his employer. Jasper receives a LAFHA from his employer.*

11. *Jasper does not need to substantiate his family's food and drink expenses during the five-month period if his total expenses do not exceed $12,393 ($567 per week multiplied by 21 $^{6}/_{7}$ weeks).*

Status: **legally binding**

12. *If Jasper's family's total food and drink expenses for the period exceed $12,393, Jasper will have to substantiate all of the expenses incurred, or his employer will be liable to FBT on the amount of LAFHA paid to Jasper that is in excess of $12,393.*

Example 2 – calculation of reasonable amounts for food and drink – overseas

13. *Maria is seconded from Australia to Canada by her employer for 25 weeks, starting work there on 1 April 2021. Maria agrees to temporarily move with her husband and child. Maria receives a LAFHA from her employer for the period of the secondment.*

14. *Maria does not need to substantiate her food and drink expenses if the total expenses do not exceed $15,137 ($605 per week multiplied by 25 weeks). Table 2 lists Canada as being in Cost Group 4, and using Table 3, the reasonable amount for food and drink is $346 per week. A factor of 1.75 for two adults and one child is applied to this rate as per Table 4.*

15. *If Maria's total food and drink expenses for the period exceed $15,137, Maria will have to substantiate all of the expenses incurred, or her employer will be liable to FBT on the amount of LAFHA paid to Maria that is in excess of $15,137.*

Date of effect

16. This Determination applies to the FBT year commencing 1 April 2021.

Commissioner of Taxation
3 March 2021

Status: **not legally binding**

Appendix – Explanation

This Explanation is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.

Background

17. This Determination is intended to be read in conjunction with Taxation Determination TD 2013/4 *Fringe benefits tax: reasonable amounts under section 31G of the Fringe Benefits Tax Assessment Act 1986 for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit, for the fringe benefits tax year commencing on 1 April 2013* (now withdrawn). TD 2013/4 sets out the amounts that the Commissioner considers reasonable under section 31G of the FBTAA for food and drink expenses incurred by employees receiving a LAFHA fringe benefit for the FBT year commencing on 1 April 2013. Reasonable amounts were determined for employees within Australia based on the 2009–10 Household Expenditure Survey (HES)[2] conducted by the Australian Bureau of Statistics and indexed to take into account movements in the Consumer Price Index (CPI) since the survey was completed. Reasonable amounts for employees overseas were determined by reference to the annual Taxation Determination which sets out reasonable travel and overtime meal allowance expense amounts. For the FBT year commencing on 1 April 2021, reference is made to Taxation Determination TD 2020/5 *Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2020-21 income year?*

Reasonable amounts for food and drink – within Australia

18. In determining the reasonable amounts for food and drink for substantiation purposes for employees living away from home in Australia, reference was made to the publicly available 2015–2016 HES[3]. The HES food and drink expenditure (including alcoholic beverages) for households in the highest-income quintile has been adopted. The HES amounts have been indexed to take into account movements in the food sub-group of the CPI since the survey was completed, to determine the reasonable amounts for food and drink for FBT substantiation purposes.

Reasonable amounts for food and drink – overseas

19. As explained more fully in TD 2013/4, the reasonable amounts for food and drink for a LAFHA paid to employees living away from home outside Australia are based on the annual Taxation Determination which sets out reasonable travel allowance amounts. The most recent Determination, which sets amounts for the 2020–21 income year, is Taxation Determination TD 2020/5.

---

[2] Australian Bureau of Statistics (2011) Household Expenditure Survey, Australia: Summary of Results – 2009–10 financial year, abs.gov.au

[3] Australian Bureau of Statistics (2018) Household Expenditure Survey, Australia: Summary of Results – 2015–16 financial year, abs.gov.au

Status: **not legally binding**

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TD 2013/4; TD 2019/11; TD 2020/5

Previous Rulings/Determinations:

TD 2016/4; TD 2017/5; TD 2018/3;
TD 2019/7, TD 2020/4

Legislative references:

- FBTAA 1986 31G
- FBTAA 1986 31G(1)(b)
- FBTAA 1986 31G(2)
- TAA 1953

Other references

Australian Bureau of Statistics (2011) Household Expenditure Survey, Australia: Summary of Results – 2009–10 financial year, abs.gov.au
Australian Bureau of Statistics (2018) Household Expenditure Survey, Australia: Summary of Results – 2015–16 financial year, abs.gov.au

ATO references

NO:	1-OD7F0SD
ISSN:	2205-6211
BSL:	SEO
ATOlaw topic:	Fringe benefits tax ~~ Living away from home allowance benefits ~~ Substantiation