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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAXATION LAWS AMENDMENT (FBT COST OF COMPLIANCE)
BILL 1995

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be
moved on behalf of the Government

(Circulated by authority of the Treasurer,
the Hon Ralph Willis, MP)



General outline and financial impact

Entertainment

Makes two minor changes to the proposed new definition of 'business premises' in subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) set out in Item 2 in Schedule 1 and corrects a technical drafting error in Item 6 in Schedule 1.

Financial impact: Nil.

Car parking benefits

Corrects technical drafting errors in Schedule 3.

Financial impact: Nil.

Substantiation rules

Changes several Items and adds new Items in Schedule 6 to make further amendments to section 162G of the FBTAA, which sets out the circumstances in which a log book needs to be kept.

Financial impact: Nil.

Explanation of the amendments

These amendments make minor changes to Schedules 1, 3, and 6 of the Taxation Laws Amendment (FBT Cost of Compliance) Bill 1995 (the Bill). Several of these amendments involve minor policy changes. The remaining amendments correct drafting errors.

Amendment 1: definition of 'business premises'

Food and drink provided to employees on business premises are exempt benefits under section 41 of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA). Item 2 in Schedule 1 of the Bill will amend the definition of 'business premises' in section 136 of the FBTAA to clarify that certain premises used for entertainment purposes are not business premises. The purpose of Item 2 is to ensure that fringe benefits tax is payable on food and drink provided to employees on these essentially non-business premises.

Amendment 1 will amend paragraphs (c) and (d) in the proposed new definition of 'business premises' in Item 2 in Schedule 1 to:

- (i) introduce a primary use test so that boats, planes and other premises which are used only incidentally for entertainment purposes will continue to be treated as business premises, e.g., an airline's plane on which meals are served to employees will qualify as business premises; and
- (ii) make an exception for premises used by employers who carry on the business of providing entertainment, so that these employers will continue to be able to provide exempt meals for employees on their premises, e.g., a restaurant owner might hold a staff party in the restaurant.

Food and drink provided to employees on these premises will continue to be exempt benefits.

Amendments 2-18: correction of drafting errors

Amendments 2-18 will correct technical drafting errors in Schedules 1 and 3.

Amendments 19-24: log books

Section 162G of the FBTAA currently sets out the circumstances in which a log book needs to be kept. The new rule proposed by the Bill is that generally an employer will need to keep a new log book only every five years (the five year rule). This rule will replace many of the existing rules that require a new

log book to be kept in specific circumstances. The Bill omits paragraphs 162G(1)(c),(f) and (g) and paragraphs 162G(2)(d),(e),(f) and (g), which set out rules that will become superfluous.

Amendments 20 and 23 will amend Items 59 and 62 in Schedule 6 to omit paragraphs 162G(1)(d) and (e) and paragraph 162G(2)(c). The rules set out in these paragraphs will also become superfluous under the new five year rule.

Paragraphs 162G(1)(d) and (e) require, in general terms, that a log book be kept during a year if the car was not held by the employer during the previous year or if no car fringe benefits were provided in the previous year.

Paragraph 162G(2)(c) requires that, where benefits are provided in relation to an employee's car, a log book be kept during a year if the employee did not hold the car during the previous year.

Amendments 19, 21, 22 and 24 will make consequential technical amendments. Items 60 and 63 will be replaced by new Items 58A and 61A.

