1. Statement

This Standard is designed to offer staff guidance regarding the Queensland Health policy and FBT implications with respect to the use of “exempt cars” and “non-cars”, as defined below.

2. Scope

Compliance with this standard is mandatory.

This standard applies to all employees within the Department of Health divisions and commercialised business units as well as Hospital and Health Services.

3. Content

Introduction

Generally, private use of all motor vehicles including utility trucks attracts FBT. However, there are circumstances where utility trucks and certain other types of vehicles will not attract FBT. The FBT exemption is conditional upon the actual use and the category of car.

Under the FBT legislation, motor vehicles are grouped into three categories, i.e. Cars, Non-Cars, and Exempt Cars.

3.1 Category 1 - "CAR"

A "car" is defined as a motor vehicle (including a vehicle known as a four wheel drive vehicle), being:

(a) a motor car, station wagon, panel van, utility truck or similar vehicle, designed to carry a load of less than 1 tonne; or

(b) any other road vehicle designed to carry a load of less than 1 tonne or fewer than 9 passengers; but does not include a motor cycle or similar vehicle.

Private use of a car gives rise to a car fringe benefit.

3.2 Category 2 - "NON-CAR"

Any motor vehicle which is not a car is a "non-car" (e.g., a motor car, station wagon, panel van, utility truck or similar vehicle, designed to carry a load of 1 tonne or more). Private use of a non-car generally gives rise to a residual fringe benefit. However, if the private use is limited as described in point 3.5 below, the benefit provided will be an exempt benefit.

3.3 Category 3 "EXEMPT CAR"

If the car is:

(i) a taxi, panel van or utility truck, designed to carry a load of less than 1 tonne; or

(ii) any other road vehicle designed to carry a load of less than 1 tonne (other than a vehicle designed for the principal purpose of carrying passengers);

it is an "exempt car" (subject to the limitations described in 3.4 below).
In accordance with these categories, a utility truck with a carrying (goods and passengers) capacity less than one tonne is treated as an "exempt car".

In the case of a dual cab if the goods carrying capacity is more than the passenger carrying capacity (number of seats times 68kg) then it is treated as an exempt car. If the goods carrying capacity is less than the passenger carrying capacity, the ATO regards the vehicle as a car (see Category 1).

The Australian Taxation Office (ATO) released an addendum to Taxation Ruling MT 2024 to assist employers in determining which vehicles may be eligible for the exemption. Any cases of uncertainty regarding eligibility for the exemption must be referred to the FBT team.

3.4 Limitations of FBT Exemption for Exempt Cars and Non-Cars

If the use of a non-car or exempt car is limited to:

Business travel;
1) Travel between home and work;
2) Other private travel that is "minor, infrequent and irregular"; the benefit provided will be an exempt benefit.

The term “minor, infrequent and irregular” is not defined within the FBT legislation, and there is virtually no case law or ATO guidelines to assist in this regard. There is some very limited guidance offered in the Addendum to MT 2024 where the ATO indicates that “minor, infrequent and irregular” would include “the occasional use of the vehicle to remove domestic rubbish”.

The ATO maintains a listing of eligible and ineligible vehicle types that is updated quarterly. These lists can be accessed on the ATO website at:

http://www.ato.gov.au/businesses/content.aspx?menuid=0&doc=/content/00167339.htm&page=1&H1

It is worthwhile noting that in response to questions the ATO is on public record stating that whether an employee’s use of a vehicle is exempt depends on the facts and circumstances of each case, and “It could not agree to any statements which suggested that a ‘simple’ percentage could be applied across the board....”. The conclusion reached is that it is not possible for employers to safely determine a percentage or a certain number of kilometres which the ATO would accept as “minor, infrequent and irregular”.

Given the limited guidelines available from the ATO, it is incumbent on employers to derive an interpretation and a policy which will, if complied with, avoid unnecessary FBT. Accordingly, in order to prevent any possibility of FBT on exempt cars and non-cars in Queensland Health, it is necessary to restrict private travel in these vehicles to travel between home and work.

Health Service Districts and other business areas of Queensland Health must not apply any other interpretation of "minor, infrequent and irregular" without first obtaining the concurrence of the FBT Team on a case by case basis.

Furthermore, log books must be maintained for the full FBT year for these vehicles (eg utility trucks) in order to prove that the restricted usage applied.

3.5 Consequences Where Restricted Usage and Log Book Requirements Are Not Met

If the restricted private usage or log book recording requirements (to prove the restricted private usage) for exempt cars are not met during any period in the FBT year, the exemption for the home to work travel is lost for that FBT year, and therefore the travel between home and work will be treated as private use (as in the case of a car) for FBT calculations.

The same rules applying to the private use of an exempt car also apply to the private use of a non-car. The only difference is that the taxable value of the private use of a non-car is calculated using a cents per kilometre basis (rate provided by annual ATO Tax Determination) or by apportioning the operating cost of
the vehicle; whilst the taxable value for the exempt vehicle would be calculated as a car fringe benefit using the Statutory Formula Method or Actual Operating Cost Method.

4. Related legislation and documents

- NAT1054 Fringe Benefits Tax – A Guide for Employers
- Section 8(2) Fringe Benefits Tax Assessment Act 1986
- Section 47(6) Fringe Benefits Tax Assessment Act 1986
- Section 136(1) Fringe Benefits Tax Assessment Act 1986
- Taxation Ruling MT 2024
- FBT Business Procedure – Car Logbooks

5. Definitions

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