

# Motor vehicle business use and FBT for companies

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Companies are liable for fringe benefit tax (FBT) where they make work vehicles available for private use to staff. This applies whether the vehicle is actually used for private purposes or not for vehicles available to:

- employees (and their associated persons), and
- shareholder-employees

## Option for close companies

Close companies providing motor vehicles to shareholder-employees can now elect to apply the motor vehicle deduction rules that sole traders and partners in a partnership use instead of paying FBT on the benefit provided to shareholder- employees.

The election applies only to new motor vehicle arrangements between close companies and shareholder-employees and will continue to apply until the close company stops using the motor vehicle for business use or until the close company disposes of the motor vehicle.

## Vehicle ownership

A company must decide whether it is better that the vehicle in question be owned by the company or the shareholder-employee. Inland Revenue are quite strict about the FBT rules. If you fail to establish the right ownership structure, or do not have the right documentation, the FBT cost to your company could be significant.

## Where FBT does not apply

FBT does not apply:

- to vehicles that come within the definition of being 'work related vehicles' that are not available for private use
- for vehicles with a gross laden weight of more than 3,500 kilograms. This tends to cover all larger trucks and buses
- for certain emergency calls and some out of town travel
- for working owners in Look Through Companies (LTCs). Instead, such benefits are treated as a distribution of profit to the working owner to the extent of the private use
- for sole traders and partners in a partnership. Instead, they make income tax and GST adjustments for private use.

## Work related vehicles

Not all 'business' vehicles are 'work-related vehicles' for FBT purposes. To qualify as a work-related vehicle, it must meet these requirements:

- The principal design of the vehicle cannot be for carrying passengers. Vehicles that qualify include utes; light pick-up trucks; vehicles without rear seats such as vans, station wagons, hatchbacks, and four-wheel drives; or where the rear seats have been welded down or made unusable because of fixtures such as shelving. Taxis and minibuses are included
- The company's name or logo must be permanently and prominently displayed on the exterior of the vehicle. Magnetic or removable signs are not acceptable
- The company must notify affected employees or shareholder-employees in writing that the only private use allowable is travel between home and work, or travel incidental to business travel. We recommend that this notification be by way of letter, rather than just referring to it in an employment agreement
- The company must record quarterly checks on each vehicle, to ensure the restriction is being followed. For example, the company might check the logbook and petrol purchases

## **FBT and private use**

If a work-related vehicle meets the conditions above but is available for private use on certain days, such as Saturdays and Sundays, a partial exemption is available.

If a vehicle is stored at a company shareholder's home which is also the company's premises, to qualify for the exemption there must be no private use of the vehicle at all.

If the shareholder's home is a secondary place of business, there must be a private use restriction to qualify for the exemption. The company would have to show that the vehicle is not available for private use.

## **Restricted private use by shareholder**

It may be possible to claim that a shareholder employee only has the vehicle available for private use on certain days.

To claim that a shareholder-employee has restricted private use of a company vehicle, Inland Revenue considers that the company must:

- Show details of the restriction
- Confirm that the shareholder-employee is aware of the restriction
- Maintain a logbook recording both business and private mileage daily or elect to maintain a three-month test period to establish the use of a vehicle by an employee
- Produce a logbook on request as evidence that the restriction has been complied with

## **When is FBT payable?**

FBT is normally payable quarterly but can be filed quarterly, annually or by income year. Filing frequency depends on the type of company you manage, the benefits you provide and how much tax you pay.

## **How is the FBT calculated?**

- FBT is calculated based on either the vehicle's cost price (including GST), or on the vehicle's tax value. . Note where FBT is based on the cost price, the cost of the motor vehicle in relation to which a payment under the clean vehicle discount scheme received by you is net of the amount of the payment.
- A vehicle's tax value is its value for tax depreciation purposes at the beginning of the relevant tax or income year
- Once you have chosen to use either the cost or tax value option you must continue that option until either the vehicle is sold, the vehicle lease ceases, or five years have passed
- If you are using the cost price option, FBT is calculated at 5% per quarter of the GST inclusive cost price of the motor vehicle, multiplied by 63.93%, which is the fringe benefit tax (using the single rate FBT option)
- If you are using the tax value option, FBT is calculated at 9% per quarter of the GST inclusive depreciated value of the motor vehicle, multiplied by 63.93% (using the single rate option)
- The FBT liability is reduced by the number of the days the vehicle was not available for private use or was exempt from FBT
- There is a provision for FBT on the provision of the motor vehicle to be paid at 49.25%. If the employee is on a salary of less than \$180,000, you should consider this option. It does involve a reconciliation at the end of each tax year. Talk to us for more detail on this option

## **Keep in mind**

As with most tax matters, good record-keeping is essential to keep track of your FBT obligations and to make sure that you have supporting documentation to justify your returns. We can help with this.