

11 October 2019

Mr Jonathan Coppel and Mr Paul Lindwall
Remote Area Tax Concessions and Payments Study
Productivity Commission
GPO Box 1428
CANBERRA ACT 2604

(via email: remotetax@pc.gov.au)

Dear Jonathan and Paul

Productivity Commission Draft Report on Remote Area Tax Concessions and Payments

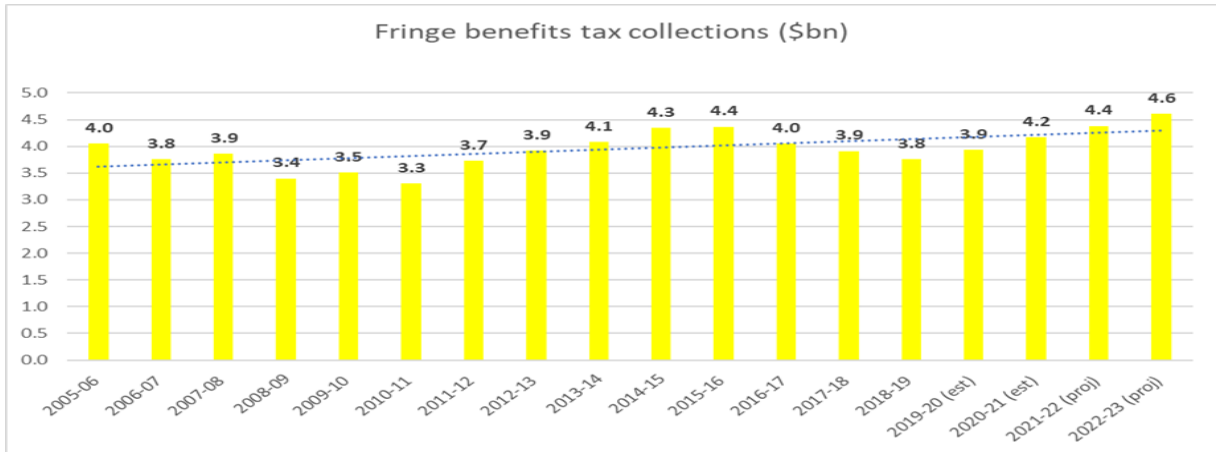
The Corporate Tax Association is the key representative body for major companies in Australia on corporate tax issues. With 130 member companies, the CTA estimates its members pay approximately 68% of income tax paid by large corporates and a significant amount of fringe benefits tax (FBT). We note that CTA members operate in a diverse range of industries including mining and oil and gas, but also include members involved in electricity generation and distribution in remote areas. A full list of CTA members can be found [here](#).

We welcome the Productivity Commission's report and its focus on supporting reform to tax laws based on the design principles of equity, efficiency and simplicity as outlined in the Henry Tax Review and the Asprey Review. FBT in particular is an area of tax law in need of focus.

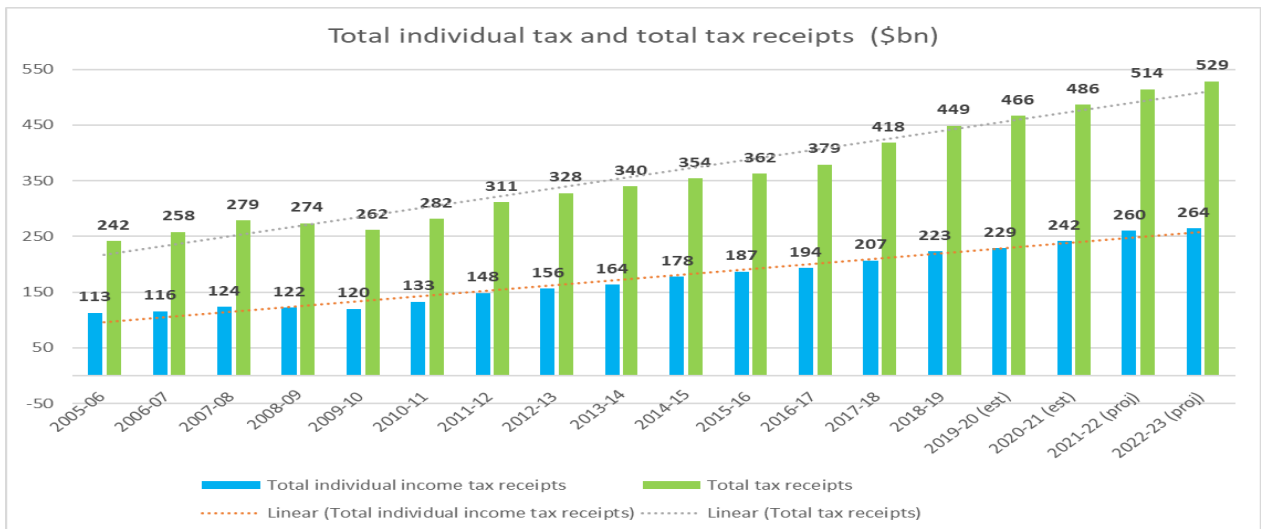
The CTA has had the benefit of reading the submission made by the MCA and APPEA and note in particular the economic contributions those industries have made to rural and remote Australia and Australia more broadly.

Observations

In the CTA's view, FBT should be seen as what it is - an integrity measure, not a source of increasing government revenue. In our view this is demonstrated by the fact the amount of FBT collected has remained stagnant over the period 2005 to 2019 at around \$4 billion per annum.



Over the same period, individual income tax collections have increased from \$113 billion to \$223 billion (197%) and total government tax receipts have increased from \$242 billion to \$449 billion (186%).¹ The relative lack of growth in FBT revenues compared to other revenue sources in our view reflects that employers opt to provide remuneration to employees in monetary form rather than as a non-cash benefit where there is a choice, given that in most cases, for taxpaying companies and employees at the top marginal tax rate, there is no tax system bias for the provision of monetary remuneration as opposed to a non-cash benefit. It is simpler and more efficient to gross-up salary and pay cash rather than provide a non-cash benefit and pay FBT where there is a choice of the provision of money over non-monetary benefits.



With remote areas there really isn't a choice for the provision of accommodation

Whilst it is reasonably clear that employer provided accommodation in an urban area to an employee at no cost to an employee is a fringe benefit upon which FBT should be payable as a matter of equity, efficiency and possibly simplicity, it does not follow that employer provided accommodation in a remote area at no cost to the employee is also a fringe benefit as a matter of equity, efficiency or simplicity. In the former case, an employee has

¹ 2019-20 Budget papers, Statement 4 revenue at <https://www.budget.gov.au/2019-20/content/bp1/index.htm>

a choice of accommodation at their disposal to meet their personal or familial requirements in the latter that choice doesn't appear to exist. The benefit of accommodation in an urban setting has benefit (or value) as the employee would otherwise have to pay for that accommodation with after tax dollars and has the choice of where that accommodation may be.

Whilst it can be argued the employee makes the choice to work in a remote area and is compensated in monetary terms at a higher rate (on which tax is paid) it doesn't follow that the same logic applies (and tax or FBT) should be paid on accommodation that is provided where there is no choice and provided for business operational reasons, not as part of salary packaging arrangements.

The lack of choice by the employee is critical to assessing if in fact there is a benefit on the provision of accommodation. In our view, as a matter of equity, efficiency and simplicity, the current 100% exemption from FBT for remote employer provided accommodation is warranted just as much as the 100% exemption for FIFO/DIDO arrangements.

We note that the PC's report suggests that the concessions may contribute to inefficiently skewing investment decisions as the true cost of employing people in a remote location is being understated due to tax considerations. It is worth noting that similar to certain public services (such as policing or public education) some industries such as electricity generation and distribution also have a public utility aspect to their operation. The provision of accommodation in remote locations is not undertaken for salary packaging purposes but for operational reasons. Whilst it can be argued that the suggested 50% exemption is a recognition of the potential dual outcome of the provision of employer provided accommodation, it should be noted it is not the dual purpose of the provision of such accommodation. The purpose of the provision is to meet operational requirements not to take advantage of the perceived tax-free benefit that accrues when compared to a grossed-up salary upon which personal income tax is paid and accommodation paid by employees with after tax dollars.

Electricity generation and distribution in some states are a regulated business. As such any proposed increase in FBT expense that may come from a change in FBT arrangements are taken into account by the regulator in assessing the industries reasonable costs to "efficiently operate". Therefore, if FBT changes have the effect of increasing employment costs (either by a higher FBT cost or by employers responding by inflating cash wages), the regulator will begin to acknowledge a higher benchmark cost of employing people and allow higher revenue/prices to customers. So, in the long term, if employing staff in remote locations remains the most efficient way to operate the network in remote areas, the cost of doing so will ultimately pass through to either customers via increase prices and/or the State Government via increased subsidies.

The removal of the customary test is a double count

A recommendation to retain the 100% exemption for FIFO/DIDO and a 50% exemption for employee provided accommodation doesn't equate either an equitable, efficient or simple tax system.

Moreover, the suggestion to remove the "customary" test in sub-paragraph 58ZC(2)(d)(iii) of the FBT Assessment Act while reducing the exemption to 50% appears to be "double counting" the value of the perceived accommodation benefit. If the view is that a 50% value of accommodation is a fringe benefit in a remote area, to then remove the customary test

will effectively mean the full value of the accommodation is subject to FBT in the vast majority of cases as it is customary for such accommodation to be provided because there is no choice of other accommodation.

Please do not hesitate to contact me if you have any questions.

Yours sincerely

Paul Suppre
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Corporate Tax Association