

Fringe Benefits Tax Assessment (Adequate Alternative Records – Otherwise Deductible Benefits) Determination 2024

I, Ben Kelly, Deputy Commissioner of Taxation, make the following determination.

Dated 28 February 2024

Ben Kelly

Deputy Commissioner of Taxation

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1 Name

 This instrument is the *Fringe Benefits Tax Assessment (Adequate Alternative Records – Otherwise Deductible Benefits) Determination 2024.*

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 1 April 2024. | 1 April 2024. |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under section 123AA of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 136 of the Act, including the following:

(a) expense payment fringe benefit;

(b) property fringe benefit;

(c) residual fringe benefit.

 In this instrument:

***Act*** means the *Fringe Benefits Tax Assessment Act 1986*.

5 Specified matters

 (1) For the purposes of subsection 123AA(2) of the Act, the following matters are specified:

 (a) the FBT year ending 31 March 2025 and all subsequent FBT years;

 (b) the statutory evidentiary document consisting of the declaration referred to in:

 (i) paragraph 24(1)(e) of the Act for an expense payment fringe benefit;

 (ii) paragraph 44(1)(c) of the Act for a property fringe benefit;

 (iii) paragraph 52(1)(c) of the Act for a residual fringe benefit;

 (c) the class of persons described in subsection 5(2); and

 (d) the alternative records described in section 6.

 (2) The class of persons described for the purposes of paragraph 5(1)(c) are employers reducing the taxable value of a benefit described in section 24, section 44, or section 52 of the Act, in circumstances where:

 (a) the employer provided an employee with an expense payment fringe benefit, property fringe benefit or residual fringe benefit;

 (b) the taxable value of the fringe benefit can be reduced if a once-only deduction would have been allowable to the recipient under the *Income Tax Assessment Act 1997* or the *Income Tax Assessment Act 1936* had they incurred the expenditure;

 (c) the employer was not given a declaration that satisfies the requirements, as relevant, of:

 (i) paragraph 24(1)(e) of the Act;

 (ii) paragraph 44(1)(c) of the Act; or

 (iii) paragraph 52(1)(c) of the Act; and

 (d) the employer relies on the adequate alternative records provision contained in subsection 123AA(1) of the Act.

6 Adequate alternative records

 (1) Records are adequate alternative records for the purposes of paragraph 5(1)(d) if they are written in English and contain the following information:

 (a) the name of the employee who received the benefit;

 (b) the dates (inclusive) on which the benefit was provided during the FBT year;

 (c) for an expense payment fringe benefit:

 (i) the nature of the expense; and

 (ii) the determined percentage for which the employee would have been entitled to claim an income tax deduction had they incurred the expense;

 (d) for a property fringe benefit:

 (i) the nature of the property; and

 (ii) the determined percentage for which the employee would have been entitled to claim an income tax deduction had they incurred the cost of the property for its market value;

 (e) for a residual fringe benefit:

 (i) the nature of the benefit; and

 (ii) the determined percentage for which the employee would have been entitled to claim an income tax deduction had they incurred the cost of the residual benefit for its market value.

 (2) The information specified in subsection 6(1) may be contained in:

 (a) any type of record; and

 (b) any number of records.