cta Corporate Tax Association

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17 August 2022

Senator Jess Walsh
Chair
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: economics.sen@aph.gov.au

Dear Senator Walsh,

Treasury Laws Amendment (Electric Car Discount) Bill 2022

The Corporate Tax Association (**CTA**) is the key representative body representing 147 major companies in Australia on corporate tax issues advocating for a simple and efficient corporate tax system. Further information about the CTA can be found on our website at www.corptax.com.au.

We welcome the opportunity to make a submission to the Senate Standing Committee on Economics (Legislation Committee) (**Committee**) on the Bill. We welcome the Government's initiative in exempting battery, hydrogen fuel cell and plug-in hybrid electric vehicles (**EVs**) from Fringe Benefits Tax (**FBT**) to encourage their take-up.

In what follows, we provide our observations and recommendations on the FBT exemption for EVs and in particular the:

- treatment of EV chargers provided at an employee's home; and
- suggested streamlining of reportable fringe benefit amount requirements for certain EVs used for work purposes.

EV chargers at Employee's Home

We have had the opportunity to discuss the proposed EV measure with senior Treasury officials to better understand the scope of the FBT exemption, particularly in relation to the treatment of associated expenses with the provision of EVs. We were advised that the FBT exemption is not intended to cover costs associated with an employer providing and installing an EV charger at an employee's home. That is seen as a separate fringe benefit. By contrast, we understand that the provision of a charging station/unit at an employer's work premises would be exempt from FBT.

Some of the practical constraints with EV use is the length of time normally associated with EV charging and the lack of charging facilities. For example, according to Hyundai, its Kona Electric plugged into the mains at home takes 28 hours for a full charge of the battery pack and it takes nine hours and 35 minutes, using a home wall unit to charge from zero to 80 percent. By contrast, it takes 75 minutes using a fast-charging station.[1] The cost of a home fast-charging unit can vary depending on type and whether it requires a qualified electrician to install.[2]

It is submitted that extending the FBT exemption to home charging stations will greatly increase the likelihood of EVs take-up and also remove the inconsistency in FBT treatment with the provision of charging facilities at work premises. We submit the cost to the revenue would not be large. It could be limited to charging units associated with new EVs. In essence, a charger could be treated similarly to a non-business accessory to an EV. That is, it would form part of the "cost" of the vehicle (for reportable fringe benefit purposes) but would be exempt from FBT.[3]

As such, we recommend that the FBT EV exemption should cover the provision of purchasing and installing of EV chargers at an employee's home where an exempt EV is provided.

Streamlining of Reportable Fringe Benefit requirements for work-related vehicles

The proposed EV measure requires exempt EV benefits provided to employees to still be included in the employee's Reportable Fringe Benefits Amount (**RFBA**). We appreciate the policy rationale for this treatment is to ensure fairness among employees who salary sacrifice an EV, as the provision of the EV is really part of their remuneration package.

However, the practical application of this measure results in significant administrative burdens borne by employers who provide exempt EVs for use by employees for work-related purposes where the operating cost method (rather than the statutory formula) is used. The way the rules operate under the operating cost method is, to the extent the car is used for private purposes, that percentage of use is reportable as a RFBA.

The current FBT law offers two calculation methods for the provision of car benefits:

1. the statutory formula which deems 20% of the cost of the car (taking into account the number of days the car is used for private use) as a benefit; or

[1] See How long does it take to charge an electric car? | CarsGuide
[2] For example LEFANEV EV Charger Level 2 Station, Wall Electric Vehicle (EV) Charging Station (25Ft/32A,220V -240V, SAE J1772) for All Electric Vehicles : Amazon.com.au: Automotive or ChargePoint Home Flex Electric Vehicle (EV) Charger Upto 50 Amp, 240V, Level 2 WiFi Enabled EVSE, UL Listed, Energy Star, NEMA 6-50 Plug or Hardwired, Indoor/Outdoor, 23-Foot Cable : Amazon.com.au: Automotive
[3] See Fringe benefits tax - a guide for employers | Legal database (ato.gov.au)

2. the operating cost method where all operating costs of the vehicle are used to determine the taxable value. This includes fuel, repairs and maintenance, registration, insurance and the like. It effectively only tries to tax private use by applying a private use percentage.

Previously, there have been calls for a change in the method in which the FBT rules calculate the value of a car fringe benefit. The most commonly used method is the "statutory method", which multiplies the cost of the vehicle by 20% to come up with the taxable value to which FBT is applied, notwithstanding that all the running costs of the vehicle may be paid by the employer too. This means an EV with a higher upfront cost, but low running costs, will generally be subject to a higher amount of FBT, compared to a "similar" combustion engine vehicle which has a lower upfront price, but higher annual operating costs.

As a practical matter, the operating cost method is used where there are high levels of business use (normally above 80%). The benefits of using the operating cost method is usually a lower amount subject to FBT, albeit this requires much more administrative work and recordkeeping. The statutory formula method is generally chosen for ease of administration.

The practical issue is, where an employer opts to use the operating cost method for work-related vehicles, employers are unlikely to be able to calculate the RFBA amount of the exempt EV benefit provided to an employee without incurring a significant additional administrative burden. This is primarily as a result of the lack of collection methods for electricity used to charge an EV at home or at employer premises. Unlike for a combustion engine vehicle, there is no equivalent to an internal combustion engine "fuel card" to be able to track costs associated with recharging an EV at home or at work premises with accuracy. As a result, the costs of recharging an EV at home or work need to be included as a RFBA, even though the cost of recharging the car is exempt from FBT.

For an internal combustion engine vehicle, reporting systems exist to reduce the value of the RFBA where there is significant business use. By contrast, no such methods are available to track the costs of EVs recharged at home or at work premises. The result is, even though the EV and recharging cost is exempt from FBT, employers effectively have to report higher RFBA for an EV than you would for a traditional vehicle if using the operating cost method. That is, a company having a work EV fleet would report for its employees a higher reportable amount than for a traditional fleet car as it has little option but to use the higher statutory formula rate. Although this result comes at no FBT cost to the employer, it results in higher RFBA benefits for an employee.

To address the disparity in reportable amounts, a simple solution would be to apply a different statutory formula for the provision of work-related EVs purely for RBFA purposes. For example, if 80% of the time the EV is used for work purposes and 20% for personal use, then 4% of the value of the EV (that is 20% of the current 20% statutory formula) would be a good proxy for the value to be reported for all EVs for RFBA purposes. In our view, applying a simple 4% value of the EV formula strikes an appropriate balance between reporting a wholly accurate RFBA and the cost of compliance.

Should you have any questions in relation to the above, please do not hesitate to contact me on [redacted] or Stephanie Caredes on [redacted]

Yours sincerely,

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Paul Suppree
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Corporate Tax Association