



29 April 2021

Assistant Secretary
Personal and Small Business Tax Branch
Individuals and Indirect Tax Division
The Treasury
By email to: fbtretraining@treasury.gov.au

Dear Sir/Madam,

Draft Exposure draft legislation – Fringe benefits tax (FBT) – exemption to support retraining and reskilling

On behalf of the Institute of Public Accountants I submit our comments on the Draft legislation *Fringe benefits tax – exemption to support retraining and reskilling*.

In the 2020-21 Budget, the Government announced that it would introduce an exemption from the 47 per cent FBT for employer provided retraining and reskilling benefits provided to redundant, or soon to be made redundant employees, where the benefits may not be related to their current employment.

We therefore welcome the opportunity to provide feedback and make the following comments for consideration in developing the legislation.

We are supportive of initiatives that encourage the continual upgrading of human capital skills over an individual's working life. In an ever-changing labour market, few expect a job for life, and it will be more likely that individuals will have multiple careers over their lifetime. The increased rate of globalisation and technological change are other drivers that are contributing to the need for continued upgrading of skills. We take the position that investing in human capital is just as important as investing in physical capital. There are wellbeing and economic benefits that quality education skills provide, which generally outweigh the cost of providing further support. Human capital is the fundamental driver of productivity and hence our in-principal support to this proposal to amend the FBT rules to exempt employer support for retraining and reskilling.

Our current tax settings do not support or encourage the retraining and reskilling once an individual has commenced earning an income in their chosen field. We believe that the tax system (Income Tax & FBT) can play a greater role in



incentivizing the retraining and reskilling of individuals to support their future employment and career.

This exemption addresses the FBT disincentive of our tax system. Without this FBT amendment, education expenses not related to an individual's current employment would be liable for FBT as the otherwise deductible rule would not exclude the benefit from FBT. The same could not be said for income tax settings. The existing requirement for a tax deduction is limited to expenses in gaining or producing assessable income. This limits deductions to an individual's current employment activities that either maintains or improves the specific skills required for that employment or leads to an increased income in the individual's current employment. Education expenses that do not have a sufficient connection to an individual's current employment are therefore not deductible. To provide equity to individuals who do have employer support for reskilling or retraining, we are also supportive of expanding income tax education deductions. In the 2020-21 Budget, the Government also announced that it would consult on allowing individuals to deduct education and training expenses they incur, where the expense is *not* related to their current employment. At the time of writing there has been no announcement on the status of this separate proposal.

We have also provided in principle support to this proposal as it is important, to extend a similar tax concession to individuals who undertake further education costs themselves, by dipping into their own pockets. There will be many employers particularly smaller entities who do not have the financial resources to fund employer support for retraining and reskilling. If the Government proceeded with expanding the income tax deduction for education deductions, then the FBT exemption would not be required. The operation of the otherwise deductible rule would exempt the benefit from FBT and the necessity to amend the FBT rules.

The economy has been savaged by the financial impacts of COVID and we are supportive of initiatives that are aimed at improving our productive capacity. The recent Federal Budget has put in place sizeable tax incentives for replacing physical capital. We see this proposal, in conjunction with wage subsidies such as the JobMaker Hiring Credit, JobTrainer (extra funding for free or low fee extra training places) and Apprenticeship Wage Subsidy as providing further support to human capital. There are many skilled individuals who have been displaced or made redundant and can be easily re-deployed into other less affected occupations with retraining and reskilling.



We commend the inclusion of flexibility around the concept of redundancy for the purposes of the new FBT exemption. The flexibility covers circumstances where an employee is made redundant in one part of the employer's business but is able to be redeployed to another part of its business (or within an associate's business). It also covers circumstances where the employer reasonably expects the employee to be redundant but has not yet been made redundant. If circumstances changed, and the employee is not actually made redundant (for example, because the employer restructures its business in such a way to retain the employee), the employer will not be denied the FBT exemption for any benefits provided during the period throughout which the redundancy test has been satisfied. We cannot envisage situations where this flexibility can be used to circumvent the policy intent for the exemption, however some consideration for an integrity measure may be warranted.

If you would like to discuss our comments, please do not hesitate to contact me.

Yours sincerely

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