MT 2025 - Fringe Benefits Tax : Guidelines for Valuation of Housing Fringe Benefits

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This document has changed over time. This is a consolidated version of the ruling which was published on *25 October 2006*

TAXATION RULING NO. MT 2025

FRINGE BENEFITS TAX GUIDELINES FOR VALUATION OF HOUSING FRINGE BENEFITS.

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1210214	FRINGE BENEFITS TAX	FRINGE BENEFITS TAX ASSESSMENT ACT : S.25, 26, 27, 29, 136.

OTHER RULINGS ON TOPIC: MT 2016, MT 2019, MT 2021, MT 2022, MT 2023, MT 2024

PREAMBLE Section 25 of the Fringe Benefits Tax Assessment Act 1986 ("the Act") stipulates that the existence of a housing right granted to a person during a year of tax constitutes a benefit to that person. Section 136 defines a housing right as the granting of a lease or licence to occupy or use a unit of accommodation as the person's usual place of residence. Circumstances in which the provision of accommodation would not constitute a housing right, for example, would be where an employee is living away from his or her usual place of residence in order to carry out the duties of employment, or is travelling in the course of employment. In the former case, the benefit would be exempt under sub-section 47(5), while in the latter it would be effectively exempted by the operation of section 52 by reason that, had the employee incurred the cost of providing the accommodation, that cost would have been deductible under the income tax law.

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2. A unit of accommodation is defined in section 136 as including a house, flat or home unit, accommodation in a hotel, hostel, motel or guesthouse, accommodation in a bunkhouse or other living quarters, accommodation in a ship, vessel or floating structure, and a caravan or mobile home.

3. A housing benefit provided by an employer or associate (or by another party under an arrangement with the employer or associate) to an employee or associate, e.g., family members, in respect of the employee's employment is a fringe benefit the taxable value of which is calculated according to the rules contained in section 26 (where the housing is not in a remote area). Under paragraph (a) of sub-section 26(1), the taxable value of the right to occupy a unit of accommodation located outside Australia is the market rental value reduced by the amount of any rent paid.

4. Under paragraph (b) of sub-section 26(1), the taxable value of "non-remote" accommodation provided in a hotel, motel, hostel, guesthouse, caravan or mobile home in Australia is the market value less any rent paid. However, where the employer providing the accommodation supplies similar or identical accommodation to paying guests in the course of a business, the taxable value is based on only 75% of the market value. To illustrate, if the market rental value of the accommodation is established as $60 per week, similar accommodation is provided to paying guests of the business and the employee's period of occupancy for the year is 20 weeks, the taxable value would be -

$60 x 20 x 75% = $900 (less any rent paid).

5. Paragraph (c) of sub-section 26(1) applies to all other housing fringe benefits in non-remote areas. The taxable value of non-remote housing located within Australia is the "statutory annual value" of the right to occupy the accommodation. This is reduced proportionately if the housing right did not exist for the whole of the tax year. The taxable value is also reduced by any rent paid by the employee.

6. The "statutory annual value" is the market value of the right to occupy the accommodation for the whole of the fringe benefits tax year where that year is a "base year of tax". Base years are the transitional year (i.e., the initial 9 month period ending on 31 March 1987) and any year which immediately follows a year in which the accommodation was not used to provide housing fringe benefits to employees. Once a base year has been established in relation to a unit of accommodation and the statutory annual value has been set for that year, the statutory annual value will be indexed for each of the next 9 years in line with movements in the rent sub-group of the Consumer Price Index. The indexation factor will be published each year. If the accommodation continues each year to be used to provide housing benefits, a new base year statutory annual value aligned with contemporary market values needs to be set only after 10 years of such use. A future ruling will explain the application of the indexation arrangements in non-base years.

7. While the statutory annual value needs to be established for the purposes of the indexation arrangements, the practical application of paragraph 26(1)(c) in a base year (including the transitional year ending on 31 March 1987) is that the taxable value of the relevant housing fringe benefit is equal to the market rental value of the accommodation for the employee's occupancy period in that year, less any rent paid. For example, if the market rental value is $100 a week and the employee occupied the accommodation for 30 weeks of the transitional year, the taxable value would be -

$100 x 30 (less any rent paid).

8. From 1 April 2000 section 29 of the Act was repealed. With effect from that date, in accordance with subsection 58ZC(1) of the Act a housing benefit that is a remote area housing benefit is an exempt benefit.

9. [Deleted]

10. [Deleted]

11. Against the above background description of the housing fringe benefits provisions, this Ruling provides guidelines for determining the market value of accommodation for the purposes of calculating the taxable value of housing fringe benefits.

RULING

12. Section 27 of the Act requires certain factors to be disregarded in determining the market value of the right to occupy a unit of accommodation. First, any rights of the occupant to have expenses associated with the occupancy, (e.g., electricity or gas) that are incurred by the occupant but paid by the employer or someone else are disregarded. (Where the right of occupancy carries with it the provision of gas or electricity without charge to the employee the market rental value of the housing benefit would need to reflect that condition.) Second, any onerous conditions of the occupancy that relate to the occupant's employment (e.g., being on call for duty) are disregarded.

13. That means, in effect, that the right to occupy the unit of accommodation is to be valued according to what it would command for rent in an open market situation, without taking into account any special employment conditions or associated expenses of the occupant that might be paid by another person. The object is to ascertain the market rental value by reference to the property that is occupied, and to disregard any matters particular to the person or persons who occupy it.

14. In normal valuation practice, the market rental is what a willing but not anxious person would be prepared to pay the owner to occupy the particular premises in their existing condition if they were put on the open market for rent. Ordinarily, market rental is to be ascertained by comparison with similar properties, on the basis that the best evidence of the market rental value of a property is to be found by examining the rents obtained for comparable properties in the locality.

15. In making that comparison, it is necessary to take into account the general physical condition of the unit of accommodation, including the number of rooms, the standard of the facilities, (e.g., heating, cooling, cooking), the existence and condition of inclusions such as furniture, carpets, drapes and blinds, and so on. Another factor that affects the rental value is the location and setting of the unit, i.e., whether or not it is in an inner or outer suburb of a city or in a country town, on a rural property, how far it is from community amenities, whether it is affected by industrial noise and pollution, and so on.

16. It will not normally be a difficult matter to arrive at a market rental value of a unit of accommodation that is in a city or town where there is a rental market for similar or broadly similar units. A three bedroom house in a capital city, for example, could be valued by ascertaining through enquiry of real estate agents or perusal of classified advertisements the range of rents charged for similar houses in the neighbouring area. If necessary, an agent could be asked to nominate the market rental that the house could command.

17. While it will not normally be difficult to ascertain

the market rental value of houses, flats, apartments and home units located in residential areas of cities or towns, there may be circumstances where particular units of accommodation being occupied by employees are not readily comparable with units for which there is a rental market or, if there are comparable units, the market does not reflect rates for long term residential occupancy, (e.g., in holiday resorts where rentals may be typically for short periods and fluctuate with the season).

18. The following valuation guidelines may be followed in relation to such kinds of accommodation. The guidelines are set out for a range of accommodation types and situations, commencing with quite basic accommodation occupied on a shared basis through to higher quality units.

Dormitory Housing

19. Typically, under this heading would be a shared room housing between 4 and 10 persons, with communal toilet, bathroom, dining and cooking facilities, e.g., single men's quarters on pastoral properties.

20. In ascertaining market rental value, a reasonable starting comparison would be the per day charge in a youth hostel, such hostels generally being of similar construction and standard to the accommodation being considered here. However, because housing fringe benefits arise in relation to a unit of accommodation that is the occupant's usual place of residence, a market rental value based on the daily rates applying in a hostel would not be appropriate. The daily youth hostel rate would need to be discounted to an appropriate long-term occupancy rate. On the basis of current youth hostel daily rates, an acceptable maximum market rental value for dormitory housing in capital cities and regional centres would be $25 per week for each adult employee occupant, and $15 per week in country towns. If the accommodation being valued is located on a rural property more than 2 or 3 kilometres from a town, further discounting would be appropriate to take account of relative isolation and lack of access to community facilities.

21. These rules assume that the accommodation being provided is comparable in standard and condition with typical hostel accommodation. If, however, the accommodation is in a poor state of repair or provides only very basic shelter, the rental value may be further reduced to take account of those conditions.

Shared Room Housing

22. This type of accommodation refers to a shared room accommodating 2 to 4 persons, with communal toilet, bathroom and dining facilities, as may be made available to single employees in some mining communities.

23. The market rental value may be set by reference to the daily rate for similar-style hostel accommodation discounted, as for dormitory housing, to an appropriate long-stay occupancy rate. An acceptable maximum market rental value in capital cities and regional centres would be $50 per week for each adult employee occupant, and $30 per week in country towns.

24. Discounting factors similar to those explained in paragraphs 20 and 21 under the dormitory housing rules would apply as necessary to take account of isolation and qualitative differences between typical hostel accommodation and the housing actually being provided.

Single Room Accommodation

25. This type of accommodation would consist of a separate bedroom for each individual, but with shared toilet, bathroom and dining facilities, e.g., nurses' quarters attached or adjacent to public hospitals.

26. An appropriate maximum market rental value would be the long-term room rate charged in an average standard hostel or private hotel. Currently that would be $60 per week in capital cities and regional centres, and $40 per week in country towns. Again these amounts would be reduced as necessary, on the principles explained in paragraphs 20 and 21, where the accommodation is distant from community facilities or is in poor condition.

Single Room Accommodation with own Bathroom

27. Accommodation being considered within this category, which is broadly similar to standard motel accommodation, consists of an individual room with its own bathroom and toilet facilities and communal dining room. Mining companies sometimes provide this kind of accommodation as single quarters.

28. An appropriate comparison for determining the maximum market rental value is the long-term room rate in a good quality hostel or private hotel, i.e., $70 per week in capital cities and regional centres, and $45 per week in country towns. That value may be discounted on the basis explained in paragraphs 20 and 21 where the accommodation is isolated or in below standard condition.

Houses in Rural Areas

29. The rental valuation approach to rural housing is the same as for properties in capital cities or suburbs (as explained in paragraphs 14, 15 and 16), i.e., by examining the rents obtained for comparable properties in the general area and making adjustments where necessary for the physical condition of the house and its location in relation to amenities.

30. If the house is in a rural town or rural city or on the outskirts, (i.e., within 2 or 3 kilometres), the main factor to be considered in determining a rental value would be the market rental for a comparable house in that town or city. The further the property is from the town or city, the more likely it is that the demand for, and hence the value of, rental accommodation will decrease because of the distance from town amenities, medical services, etc, and general isolation.

31. As in other cases, the market rental value of a rural house is what people might be prepared to pay on the open market to live in it. The fact that the house would not be let out by the employer other than to employees would not affect that

value, nor would it be determinative of value that the property had been put up for rent but had not attracted a tenant. That latter factor may only mean that the rent being asked was above the market value.

32. As has been explained in relation to dormitory housing (paragraphs 20 and 21 above), it is important in ascertaining the market rental value of a house that is some distance from comparable rental houses to compare "like with like". That is, appropriate notice is to be taken of factors such as the distance of the accommodation from town amenities, the state of repair compared with rented houses in the nearest town, and whether there are reduced facilities such as the absence of power, running water, heating etc. For example, a well preserved three bedroom brick house in town would let for $100 per week. If it was of timber or fibro construction, the value would be less, and less again of course if normal electricity, water or gas services were unavailable.

Hotel and Motel Accommodation

33. It frequently happens that employees of a hotel or motel, particularly managers, are housed in a room or suite within the hotel or motel.

34. As mentioned in relation to dormitory housing (paragraph 20 above), in valuing the accommodation as the employee's usual place of residence, it would not be appropriate to use the daily rate charged to casual guests as the benchmark. Rather, an appropriate long-stay occupancy rate needs to be established. If, for example, the business caters for permanent residents, the rental charged for permanent occupancy of a room or suite similar to that occupied by the employee could be adopted as the market rental value. Alternatively, the employer could determine an imputed value equal to the amount that would commercially be charged to an arm's length guest if the employee's accommodation was to be made available for permanent occupancy.

35. It would also be acceptable to set a market rental value in such cases by reference to rentals charged for equivalent accommodation in the nearest residential quarter. For example, a manager of an inner city international standard hotel may be housed in a two bedroom suite. An appropriate market rental value for fringe benefits tax purposes would be the rent charged for a similarly equipped and furnished two bedroom inner-city apartment or unit. If there are no comparable inner-city apartments or units, a parallel could be drawn with that kind of rented accommodation in an inner-suburban area.

36. As an acceptable arbitrary alternative to the process described in the previous paragraph, the employer may adopt as the market rental value an amount equal to 15% of the daily rate that would be charged to casual guests for the unit of accommodation. For example, if the manager of an inner city international standard hotel occupies a suite of a kind let to guests for $400 per night, the market rental value may be treated as $400 x 15%, i.e., $60 per night.

Holiday Resorts

37. Employees of tourist resort operators may be housed in any of the kinds of accommodation previously dealt with, e.g., dormitory, single room, separate houses, hotels, motels, etc, and the various valuation guidelines that have been given in this Ruling could be applied.

38. For example, if employees are housed in single room accommodation of the kind described in paragraph 25, the long-term room rate of an average hostel or private hotel could be used as a benchmark for the equivalent market value, discounted if relevant for isolation, the condition of the accommodation and any absence of facilities. Where, on the other hand, the unit of accommodation is a house, the valuation approach set out in paragraphs 14, 15 and 16 could be followed if the resort is in a city or regional centre or, if it is in a rural area, the procedures set out in paragraphs 29 to 32.

39. Where the units of accommodation being provided to employees of the resort are identical or similar to those provided to paying guests, one of the alternative valuation arrangements acceptable for hotel or motel accommodation may be adopted - see paragraphs 34 to 36.

40. In some cases, e.g., where the resort is self-contained and is not part of a larger residential community, it may not be possible to set a value by direct reference to rentals charged for equivalent accommodation in a nearby residential area. (On a resort island, for example, there may be no permanent residents other than employees.) In such a case, it would be appropriate to make a comparison with rentals charged in the closest town or city. Where the accommodation was of a kind provided to paying guests, the valuation choices would be, therefore:

(1) to adopt the rental (if there is one) charged for permanent residents;

(2) to impute the rent that would be charged commercially for permanent occupancy;

(3) to set the market rental by reference to equivalent residential units such as, if applicable, units in the closest city or town; or

(4) to set the market rental at 15% of the rate charged per day for casual guests.

Mining Towns

41. The general approach of ascertaining market rental value by reference to rents paid for comparable properties in the general locality should also be adopted where practicable in relation to housing provided by employers in mining towns, including towns the general residential infrastructure of which has been provided by a mining company. While mine employees are often required to pay rent for their accommodation, those rents are usually concessional and do not reflect commercial rents. Rather, market rental value would be reflected in what other town residents who are willing but not anxious to rent would be prepared to pay to occupy premises comparable to the

accommodation provided to mining company employees. It will not often be the case that adequate evidence of a commercial rental market of that kind cannot be found in a mining town. However, if town housing is occupied exclusively by mine employees, or the commercial rental market is of such a scale or type that the accommodation occupied by mining employees is not comparable, commercial rents charged for comparable accommodation in the nearest other town of comparable size would be a measure of the market rental value of mining employees' housing.

Caretakers, etc.

42. Employee caretakers are provided with a wide variety of different types of accommodation, e.g., flats, apartments or units within blocks of such accommodation, houses within school grounds, flats above shops, flats or apartments within office blocks, houses or parts of houses owned by institutions such as National Trust bodies.

43. The market rental value of caretaker accommodation comprising a flat or unit etc. within a residential block would be set by comparison with rents charged for comparable flats or units in the block. If, as may occur, the caretaker's unit of accommodation is less favourably placed than others, e.g., it faces a noisy thoroughfare or is by its location less private than other units, the market value may be discounted. The extent of the discount would depend upon the nature of any inconvenience caused by the location but, as a guide, it is considered that no more than 10% discount should be allowed for such factors.

44. The general valuation rules previously explained (see paragraphs 14, 15 and 16) would apply to houses or other accommodation within the grounds of schools, universities or other institutions. That is, the market rental value would be set by reference to commercial rents charged for comparable residential accommodation in the general area. In many such cases, however, the general living conditions would be affected in some degree by external physical factors such as noise from students and school bells, the noise and proximity (e.g., in a university) of campus traffic, and other disturbances caused by institutional routine. Where such conditions exist to an appreciable extent the market rental value established by reference to comparable nearby accommodation could be discounted by up to 10%.

45. Caretakers' accommodation contained within a non-residential building or complex, e.g., an apartment in a city office block, could be valued along the lines mentioned in paragraph 35 relating to hotel and motel accommodation. That is, market rental value could be set by reference to rentals charged for equivalent accommodation in the nearest residential quarter. An appropriate market rental value of a one bedroom flat in a city office block would be the rent charged for a flat of similar size and quality in the nearest residential area. However, to allow for the isolation and lack of amenity due to the fact of having to live within a complex that is essentially non-residential in character, that value could be discounted by 20%.

46. Where a caretaker has the right to use only part of a

unit of accommodation, the market rental value is appropriately reduced. In the case, for example, where one bedroom of a three bedroom caretaker's house was required for storage of the employer's equipment, the market rental value would be based on rents for comparable two bedroom rather than three bedroom houses.

47. A similar situation applies, as another example, where say, elderly couples are provided with accommodation in historic houses owned and preserved by National Trust bodies in return for acting as caretakers or security wardens. Frequently, the houses are open to the public and, in those circumstances, it is commonly the case that the employees in practice do not have the full run of the houses as a residence.

48. If caretakers are allotted specific rooms in a National Trust house that they may occupy as a residence, the market rental value would be set for those rooms. For example, a couple may be entitled to use a bedroom, lounge, kitchen, bathroom and laundry. The market rental value would be the commercial rental paid for a similar sized flat or unit in a nearby residential quarter.

49. Even where there is no specific restriction on the use of rooms but the general circumstances are as described in paragraph 47 above, for comparative valuation purposes it would be reasonable for caretaker couples without children to be treated as occupying one bedroom, a lounge, kitchen, bathroom and laundry as their residence.

50. As mentioned in paragraph 12, section 27 requires that onerous conditions attaching to the housing right and relating to the employees' duties be disregarded for the purposes of determining the market rental value, e.g., where the caretaker is required to lock and unlock access doors or be in attendance during public opening hours. Nevertheless, where a National Trust house is open to the public, a certain amount of external noise and disturbance that would affect market rental will be caused by the movement of cars and visitors. The market rental value could be reduced by a factor of 10% on that account.

Accommodation provided by Funeral Directors

51. Funeral directors often employ a person to live within, or immediately adjacent to, the mortuary premises and to carry out tasks relating to the operation of the business.

52. It is accepted that the location of such accommodation and related conditions have a material effect on what might otherwise be the market rental value. Accordingly, the accommodation should initially be valued according to principles previously described by reference to comparable units of accommodation in the closest residential area, but a discount of 40% may then be applied to take account of the adverse factors particular to such accommodation.

Remoteness

53. [Deleted]

54. [Deleted]

COMMISSIONER OF TAXATION

10 September 1986