

TD 2023/2 - Fringe benefits tax: reasonable amounts under section 31G of the Fringe Benefits Tax Assessment Act 1986 for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit for the fringe benefits tax year commencing on 1 April 2023



This cover sheet is provided for information only. It does not form part of *TD 2023/2 - Fringe benefits tax: reasonable amounts under section 31G of the Fringe Benefits Tax Assessment Act 1986 for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit for the fringe benefits tax year commencing on 1 April 2023*



Status: **legally binding**

Taxation Determination

Fringe benefits tax: reasonable amounts under section 31G of the *Fringe Benefits Tax Assessment Act 1986* for food and drink expenses incurred by employees receiving a living-away-from-home allowance fringe benefit for the fringe benefits tax year commencing on 1 April 2023

Relying on this Determination

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Determination applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Determination. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Determination.

Table of Contents	Paragraph
Ruling	1
Reasonable amounts for food and drink – within Australia	5
Reasonable amounts for food and drink – overseas	7
<u>Example 1 – calculation of reasonable amounts for food and drink – within Australia</u>	13
<u>Example 2 – calculation of reasonable amounts for food and drink – overseas</u>	16
<u>Example 3 – calculation of exempt food component – allowance for total food and drink expenses</u>	19
Date of effect	22
Appendix – Explanation	23
Background	23
Reasonable amounts for food and drink – within Australia	30
<i>Location</i>	31
<i>Household expenditure survey</i>	33
Reasonable amounts for food and drink – overseas	39

Status: **legally binding**

Ruling

1. This Determination sets out the amounts that the Commissioner considers reasonable under section 31G of the *Fringe Benefits Tax Assessment Act 1986* for food and drink expenses incurred by employees receiving a living-away-from-home allowance (LAFHA) fringe benefit for the fringe benefits tax (FBT) year commencing on 1 April 2023.
2. All legislative references in this Determination are to the *Fringe Benefits Tax Assessment Act 1986*.
3. Where the total of food and drink expenses for an employee (including eligible family members) does not exceed the amount the Commissioner considers reasonable, those expenses do not have to be substantiated under section 31G. Where an employee receives a LAFHA fringe benefit with a component for food and drink expenses, for the employer to reduce the taxable value of the fringe benefit by the exempt food component, the expenses must be either:
 - equal to or less than the amount the Commissioner considers reasonable under paragraph 31G(1)(b), or
 - substantiated in accordance with the requirements in subsection 31G(2).
4. If the total of an employee's food or drink expenses exceeds the amount the Commissioner considers reasonable, the substantiation provisions under section 31G will apply.

Reasonable amounts for food and drink – within Australia

5. Table 1¹ sets out the weekly amounts the Commissioner considers to be reasonable food and drink amounts for a LAFHA paid to employees living away from home within Australia for the FBT year commencing on 1 April 2023. These amounts are for the total of food or drink expenses and include any amounts that may have been allowed for home consumption. For previous years' figures, visit [Fringe benefits tax – rates and thresholds](#).

Table 1: Amounts of reasonable food and drink – within Australia

	Per week
One adult	\$316
2 adults	\$474
3 adults	\$632
One adult and one child	\$395
2 adults and one child	\$553
2 adults and 2 children	\$632
2 adults and 3 children	\$711
3 adults and one child	\$711
3 adults and 2 children	\$790
4 adults	\$790

¹ References to Tables 1, 2, 3 and 4 are to the tables in this Determination.

Status: **legally binding**

(‘Adults’ for this purpose are persons who had attained the age of 12 years before the beginning of the FBT year).

6. In relation to larger family groupings, the Commissioner accepts the reasonable food and drink amount based on the Table 1 figures plus:

- \$158 for each additional adult, and
- \$79 for each additional child.

Reasonable amounts for food and drink – overseas

7. Tables 2, 3 and 4 set out the weekly amounts the Commissioner considers to be reasonable food and drink amounts for a LAFHA paid to employees living away from home outside Australia for the FBT year commencing on 1 April 2023. Table 2 sets out the cost group to which a country has been allocated. Table 3 sets out the reasonable amount for food and drink expenses for each cost group.

8. If the employee lives away from home in a country that is not shown in Table 2, the employee can use the amount for Cost Group 1 in Table 3.

9. If a country is not listed in Table 2, use the amount for Cost Group 1 in Table 3.

10. For the amounts that apply to each cost group, see Table 3.

Status: **legally binding**

Table 2: List of countries

Country	Cost Group	Country	Cost Group
Albania	2	Croatia	3
Algeria	3	Cuba	3
Angola	4	Cyprus	4
Antigua and Barbuda	6	Czech Republic	3
Argentina	2	Denmark	6
Armenia	3	Dominican Republic	4
Austria	5	East Timor	4
Azerbaijan	3	Ecuador	4
Bahamas	6	Egypt	3
Bahrain	5	El Salvador	3
Bangladesh	4	Eritrea	4
Barbados	6	Estonia	4
Belarus	2	Ethiopia	3
Belgium	5	Fiji	3
Bermuda	6	Finland	6
Bolivia	3	France	5
Bosnia and Herzegovina	2	French Polynesia	6
Brazil	3	Gabon	6
Brunei	3	Gambia	2
Bulgaria	3	Georgia	2
Burkina Faso	3	Germany	5
Cambodia	1	Ghana	4
Cameroon	4	Gibraltar	4
Canada	4	Greece	4
Chile	3	Guatemala	4
China	5	Guyana	4
Colombia	3	Hong Kong	5
Congo Democratic Republic	4	Hungary	3
Cook Islands	4	Iceland	6
Costa Rica	4	India	3
Cote D'Ivoire	5	Indonesia	3

Status: **legally binding**

Country	Cost Group	Country	Cost Group
Iran	1	Portugal	4
Iraq	5	Puerto Rico	5
Ireland	5	Qatar	6
Israel	6	Russia	4
Italy	5	Romania	3
Jamaica	4	Rwanda	3
Japan	5	Saint Lucia	5
Jordan	6	Saint Vincent and the Grenadines	4
Kazakhstan	2	Samoa	4
Kenya	4	Saudi Arabia	4
Korea	6	Senegal	4
Kosovo	2	Serbia	3
Kuwait	5	Sierra Leone	3
Kyrgyzstan	2	Singapore	6
Laos	3	Slovakia	4
Latvia	4	Slovenia	3
Lithuania	3	Solomon Islands	4
Luxembourg	5	South Africa	2
Macau	5	Spain	5
Malawi	3	Sri Lanka	3
Malaysia	3	Sudan	2
Mali	3	Surinam	3
Malta	4	Sweden	5
Mauritius	4	Switzerland	6
Mexico	3	Taiwan	5
Monaco	6	Tanzania	3
Morocco	4	Thailand	4
Mozambique	3	Tonga	3
Myanmar	3	Trinidad and Tobago	6
Namibia	2	Tunisia	2
Nepal	3	Turkey	3
Netherlands	5	Uganda	3
New Caledonia	5	Ukraine	3
New Zealand	4	United Arab Emirates	6
Nicaragua	3	United Kingdom	5
Nigeria	4	United States of America	5
North Macedonia	2	Uruguay	3
Norway	6	Vanuatu	4
Oman	6	Vietnam	3
Pakistan	2	Zambia	2
Panama	4		
Papua New Guinea	4		
Paraguay	2		
Peru	4		
Philippines	3		
Poland	3		

Status: **legally binding**

Table 3: Amounts by cost group

Cost group	Food and drink for one adult
1	\$137
2	\$201
3	\$273
4	\$346
5	\$437
6	\$537

11. Where the employee is accompanied by other family members while overseas, the reasonable food and drink amount per week for the family is worked out by multiplying the amount shown in Table 3 by the relevant factor in Table 4.

Table 4: Factors to apply for family groups – overseas

Family group	Factor
2 adults	1.5
3 adults	2.0
One adult and one child	1.25
2 adults and one child	1.75
2 adults and 2 children	2
2 adults and 3 children	2.25
3 adults and one child	2.25
3 adults and 2 children	2.5
4 adults	2.5

12. In relation to larger family groups, the Commissioner accepts the reasonable food and drink amounts can be increased:

- for each additional adult by a further 50% of the relevant single adult rate in Table 3, and
- for each additional child by a further 25% of the relevant single adult rate in Table 3.

Example 1 – calculation of reasonable amounts for food and drink – within Australia

13. Jasper, his wife and their 2 children (both under 12 years of age) temporarily move to Brisbane from Sydney for a period of 5 months (from 1 May 2023 to 30 September 2023, which is 21 weeks and 6 days) for Jasper to work on a project for his employer. Jasper receives a LAFHA from his employer to cover his and his family's additional food and drink expenses.

14. Jasper does not need to substantiate his family's food and drink expenses during the 5-month period if his total expenses do not exceed \$13,814 (\$632 per week x 21 and six-sevenths weeks).

15. If Jasper's family's total food and drink expenses for the period exceed \$13,814, Jasper will have to substantiate all of the expenses incurred or his employer will be liable to FBT on the amount of LAFHA paid to Jasper that is in excess of \$13,814.

Status: **legally binding**

Example 2 – calculation of reasonable amounts for food and drink – overseas

16. Maria is seconded from Australia to Canada by her employer for 25 weeks, starting work there on 1 April 2023. Maria agrees to temporarily move with her husband and child. Maria receives a LAFHA from her employer for the period of the secondment to cover her and her family's additional food and drink expenses.

17. Maria does not need to substantiate her food and drink expenses if the total expenses do not exceed \$15,137.50 (\$605.50 per week x 25 weeks). Table 2 lists Canada as being in Cost group 4 and, using Table 3, the reasonable amount for food and drink is \$346 per week. A factor of 1.75 for 2 adults and one child is applied to this rate, as per Table 4.

18. If Maria's total food and drink expenses for the period exceed \$15,137.50, Maria will have to substantiate all of the expenses incurred or her employer will be liable to FBT on the amount of LAFHA paid to Maria that is in excess of \$15,137.50.

Example 3 – calculation of exempt food component – allowance for total food and drink expenses

19. Charlotte temporarily moves from Melbourne to Sydney for 30 weeks, starting work there on 1 April 2023 on a project for her employer. Charlotte receives a LAFHA from her employer for the duration of the period to cover her total food and drink expenses.

20. The LAFHA includes a food component of \$325 per week, totalling \$9,750 for the period (\$325 x 30 weeks). As the allowance is above \$9,480 (\$316 per week x 30 weeks), which is the reasonable amount for food and drink for the 2023–24 FBT year, Charlotte must substantiate amounts above the reasonable amount for the food component to be exempt.

21. If Charlotte does not provide substantiation for this period, the exempt food component will be reduced in accordance with the formula outlined in section 31H as follows:

$$\text{reasonable amount} - \text{statutory food amount} = \text{exempt food component}$$

$$\$316 - \$42 = \$274$$

Therefore, \$8,220 (\$274 x 30 weeks) will be the exempt food component. The employer will be liable for FBT on the amounts paid in excess of this amount.

Date of effect

22. This Determination applies to the FBT year commencing 1 April 2023.

Commissioner of Taxation

29 March 2023

Status: **not legally binding**

Appendix – Explanation

❶ *This Explanation is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

Background

23. From 1 October 2012, the concessional tax treatment of LAFHAs and benefits applies for a maximum period of 12 months² to those employees who:

- maintain a home in Australia (at which they usually reside) for their immediate use and enjoyment at all times while they are living away from that home for their work³, and
- have provided their employer with a declaration about living away from home.⁴

24. An exception to the rule in paragraph 21 of this Determination applies to employees who are working on a fly-in fly-out or drive-in drive-out basis.⁵ These employees do not have to maintain a home in Australia for their own use for the concessional treatment to apply in relation to the fringe benefits and the concessional treatment is not limited to a period of 12 months. Where the LAFHA exceeds the amount the Commissioner considers reasonable, these employees still have to substantiate expenses incurred on accommodation and food or drink (beyond the Commissioner's reasonable amount) and provide the employer with a declaration relating to living away from home or the employer will be liable to FBT on the amount of LAFHA paid in excess of the reasonable amount.

25. The taxable value of a LAFHA fringe benefit provided to an employee is calculated as the amount of the fringe benefit reduced by:

- any exempt accommodation component⁶, and
- any exempt food component.⁷

26. For the purposes of any exempt food component, substantiation requirements may need to be met by the employee. If the total of an employee's food or drink expenses for which a LAFHA is received exceeds the amount the Commissioner considers reasonable, the substantiation provisions under section 31G will apply. The exempt food component will be so much of the food and drink expenses (less the applicable statutory food total) that are substantiated by the employee. Where substantiation is required, all food and drink expenses must be substantiated before they can be treated as an exempt food component.

27. Where food and drink expenses exceed the reasonable amount, and are not substantiated in full, the reasonable amount will be exempt, but the employer will be subject to FBT in respect of any excess paid to the employee over the reasonable amount.

² See section 31D.

³ See section 31C.

⁴ See section 31F.

⁵ See sections 31E and 31A.

⁶ See subsection 136(1) for the definition of 'exempt accommodation component'.

⁷ See section 31H.

28. This Determination specifies the food and drink amounts the Commissioner considers reasonable for the FBT year commencing on 1 April 2023. These amounts are for the total of food or drink expenses and include any amounts that may have been allowed for home consumption.

Reasonable amounts for food and drink – within Australia

Status: **not legally binding**

36. In MT 2040W, the factor to be applied to:

- a household of 2 adults and one child was 1.8 times the rate for one adult
- a household of 2 adults was 1.6 times the rate for one adult, and
- each additional child under 12 years of age was 0.5 times the additional rate for one adult.

37. In the interests of consistency, those factors have been modified and applied to establish the relationships in Tables 1 and 4. The factors adopted (subject to rounding) are:

- a household of 2 adults and one child is 1.75 times the rate for one adult
- a household of 2 adults is 1.5 times the rate for one adult, and
- each child under 12 years of age is 0.5 times the additional rate for one adult.

38. As a result, the same rates and increments apply consistently to calculate the rate for each lesser or additional adult and child within Australia and overseas. The indexed amount derived from the HES has been divided by 1.75 to determine the rate for a single adult and the factors have then been applied to the single adult rate to determine the amounts for larger family groups set out in Table 1.

Reasonable amounts for food and drink – overseas

39. The Commissioner publishes an annual Taxation Determination which sets out reasonable accommodation, food and drink and incidental expenses for employees whose travel for work necessitates overnight stays away from home (reasonable travel allowance amounts). The most recent Determination, which sets amounts for the 2022–23 income year, is Taxation Determination TD 2022/10 *Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2022–23 income year?*

40. The amounts set out in TD 2022/10 are the product of data obtained from independent third parties and are worked out based on the salary ranges of employees and for a wide variety of locations, including overseas.

41. Food prices may vary significantly from country to country and within countries depending on factors such as population, climate, transport and proximity to produce and larger population centres. There is no comparable data available for overseas locations to that contained in the HES conducted by the Australian Bureau of Statistics.

42. In calculating the reasonable overseas rates, it is considered an appropriate and reasonable approach to work out the percentage that an employee would be expected to spend on food and drink per week while living away from home as a proportion of what they would be expected to spend if they were travelling overnight for work.

43. This is calculated by dividing (a) by (b):

- (a) the reasonable food component of a LAFHA for expatriate employees published in TD 2022/10, which represents amounts expected to be spent on food and drink by households on the highest decile (as set out in the latest HES, indexed to take into account movements in the food sub-group of the Consumer Price Index since the survey was completed, and

Status: **not legally binding**

- (b) the reasonable travel allowance amount published in TD 2022/10, which represents amounts expected to be spent on food and drink by employees who have salaries equivalent to the highest decile and who travel away overnight for work.

44. To arrive at the overseas reasonable rates in the different cost groups set out in Table 3, the rate of 26% was applied to the rate for meals (not including incidentals) as shown in Table 7 of TD 2022/10, then multiplied by 7 to get the weekly amount. The factors at Table 4 are applied to the appropriate single adult rate shown in Table 3 where the employee is accompanied by other family members while overseas.

45. In setting the reasonable amounts for food and drink for substantiation purposes for employees living away from home in an overseas location, the Commissioner has adopted a single amount for all such employees irrespective of their individual income. The mid-range salary grouping from Table 7 of TD 2022/10 has been adopted for this purpose as it can be accepted that employees in receipt of a LAFHA will often incur higher food and drink costs but will not always be in receipt of salary above \$186,521.

Status: **not legally binding**

References

Related Rulings/Determinations:

MT 2040W; TD 2021/6; TD 2022/10

Previous Rulings/Determinations:

TD 2018/3; TD 2019/7; TD 2020/4;
TD 2021/3; TD 2022/2

Legislative references:

- FBTAA 1986 31A
- FBTAA 1986 31C
- FBTAA 1986 31D
- FBTAA 1986 31E
- FBTAA 1986 31F

- FBTAA 1986 31G
- FBTAA 1986 31G(1)(b)
- FBTAA 1986 31G(2)
- FBTAA 1986 31H
- FBTAA 1986 136(1)

Other references

Australian Bureau of Statistics (2018)
Household Expenditure Survey, Australia:
Summary of Results – 2015–16 financial
year, abs.gov.au

ATO references

NO: 1-WMKPPVS

ISSN: 2205-6211

BSL: SEO

ATOlaw topic: Fringe benefits tax ~~ Types of benefit ~~ Living away from home benefits

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).