



Treasury Laws Amendment (Electric Car Discount) Act 2022

No. 86, 2022

An Act to amend the *Fringe Benefits Tax Assessment Act 1986* to exempt benefits relating to cars that are zero or low emissions vehicles, and for other purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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An Act to amend the *Fringe Benefits Tax Assessment Act 1986* to exempt benefits relating to cars that are zero or low emissions vehicles, and for other purposes

[Assented to 12 December 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (Electric Car Discount) Act 2022*.

2 Commencement

- (1) Each provision of this Act 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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	12 December 2022
2. Schedule 1	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 January 2023
3. Schedule 2	1 April 2025.	1 April 2025

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Electric car discount: exemptions from fringe benefits tax

Fringe Benefits Tax Assessment Act 1986

1 At the end of Subdivision A of Division 2 of Part III

Add:

8A Exempt car benefits: cars that are zero or low emissions vehicles

- (1) A car benefit is an exempt benefit in relation to a year of tax if:
 - (a) the benefit is provided in the year of tax in respect of the employment of a current employee; and
 - (b) the car is a zero or low emissions vehicle when the benefit is provided; and
 - (c) no amount of luxury car tax (within the meaning of the *A New Tax System (Luxury Car Tax) Act 1999*) has become payable on a supply (within the meaning of that Act) or importation (within the meaning of that Act) of the car before the benefit is provided.
- (2) A ***zero or low emissions vehicle*** is:
 - (a) a battery electric vehicle; or
 - (b) a hydrogen fuel cell electric vehicle; or
 - (c) a plug-in hybrid electric vehicle.
- (3) A ***battery electric vehicle*** is a motor vehicle that:
 - (a) uses only an electric motor for propulsion; and
 - (b) is fitted with neither a fuel cell nor an internal combustion engine.
- (4) A ***hydrogen fuel cell electric vehicle*** is a motor vehicle that:
 - (a) uses an electric motor for propulsion; and
 - (b) is equipped with a fuel cell for converting hydrogen to electricity; and
 - (c) is not fitted with an internal combustion engine.
- (5) A ***plug-in hybrid electric vehicle*** is a motor vehicle that:

- (a) uses an electric motor for propulsion; and
- (b) takes and stores energy from an external source of electricity; and
- (c) is fitted with an internal combustion engine for either or both of the following:
 - (i) the generation of electrical energy;
 - (ii) propulsion of the vehicle.

2 Subsection 53(1)

After “subsection 8(2)” insert “or section 8A”.

3 At the end of section 135P

Add:

Exempt car benefits for zero or low emissions vehicles are included

- (3) In working out the employee’s individual fringe benefits amount for the purposes of this section, disregard section 8A (Exempt car benefits: zero or low emissions vehicles).

4 Paragraph 135Q(1)(c)

Omit “apart from those sections,”, substitute “apart from those sections and section 8A,”.

5 Subsection 135Q(1) (at the end of the note)

Add “Section 8A exempts car benefits for zero or low emissions vehicles.”.

6 Subsection 136(1)

Insert:

battery electric vehicle has the meaning given by subsection 8A(3).

hydrogen fuel cell electric vehicle has the meaning given by subsection 8A(4).

plug-in hybrid electric vehicle has the meaning given by subsection 8A(5).

zero or low emissions vehicle has the meaning given by subsection 8A(2).

7 Application of amendments

- (1) The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply to benefits provided on or after 1 July 2022.
- (2) Section 8A of the *Fringe Benefits Tax Assessment Act 1986* applies to a car benefit only if the earliest time when a person both held and used the car was at or after the start of 1 July 2022.

8 Review of operation of electric car discount

- (1) The Minister must cause a review to be undertaken, in accordance with this item, of the operation of:
 - (a) the provisions of the *Fringe Benefits Tax Assessment Act 1986* that are inserted or amended by this Schedule; and
 - (b) any provisions of the *Customs Tariff Act 1995* that are inserted or amended pursuant to Customs Tariff Proposal (No. 5) 2022, which was moved in the House of Representatives on 2 August 2022 and of which notice was given by the legislative instrument numbered F2022L01001.
- (2) The review must relate to the operation of those provisions, as so inserted or amended, during the 3 years from the commencement of this Schedule and, in particular, their effectiveness in encouraging the uptake of cars that are zero or low emissions vehicles.
- (3) Without limiting subitem (2), the review must include consideration of:
 - (a) whether the operation of some or all of those provisions, as so inserted or amended, should continue; and
 - (b) what types of motor vehicles should be covered by the provisions.
- (4) The conduct of the review must include consultation with the public about the matters to which the review relates.
- (5) The review must be completed, and a report on the review must be given to the Minister, within 18 months after the end of the 3 years from the commencement of this Schedule.

- (6) The Minister must:
- (a) cause the contents of the report to be made available to the public as soon as practicable, and in any event within 28 days, after the Minister receives the report; and
 - (b) cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

Schedule 2—Electric car discount: termination of exemption for plug-in hybrid electric vehicles

Fringe Benefits Tax Assessment Act 1986

1 Paragraph 8A(2)(b)

Omit “vehicle; or”, substitute “vehicle.”.

2 Paragraph 8A(2)(c)

Repeal the paragraph.

3 Subsection 8A(5)

Repeal the subsection.

4 Subsection 136(1) (definition of *plug-in hybrid electric vehicle*)

Repeal the definition.

5 Application of amendments

- (1) The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply to benefits provided on or after 1 April 2025.
- (2) Despite subitem (1), the amendments do not apply to the application or availability of a car at a particular time (the ***relevant time***) on or after 1 April 2025 if:
 - (a) the application or availability constitutes a car benefit because of subsection 7(1) of the *Fringe Benefits Tax Assessment Act 1986*; and
 - (b) before 1 April 2025, the employer, the employee, or an associate of the employer or of the employee, committed to the application or availability of the car, in respect of the employment of the employee by the employer, for a period that began before 1 April 2025 and includes the relevant time; and

Schedule 2 Electric car discount: termination of exemption for plug-in hybrid electric vehicles

- (c) at no time on or after 1 April 2025 and before or at the relevant time did the employer, the employee, or an associate of the employer or of the employee, commit to the application or availability of the car, in respect of the employment of the employee by the employer, for a period that includes the relevant time; and
 - (d) before 1 April 2025 a car benefit relating to the car was provided; and
 - (e) the car benefit referred to in paragraph (d) of this subitem was an exempt benefit in relation to a year of tax because of section 8A (Exempt car benefits: zero or low emissions vehicles) of that Act.
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*[Minister's second reading speech made in—
House of Representatives on 27 July 2022
Senate on 8 September 2022]*

(51/22)
