

LAFHA changes require Payroll support



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With significant recent changes to LAFHA, the Fringe Benefits Tax law, the link between Payroll and FBT obligations has never been greater.

Payroll professionals are required to not only understand these changes and interactions, but to also work even more closely with colleagues from Human Resources, Industrial Relations, Finance and Taxation.

What are the changes?

As we all know, from 1 October 2012, the Living Away From Home rules were significantly overhauled. Whilst the rules remain in the FBT law, there is an increased requirement to ensure LAFHA payments are properly tracked and categorised. The main changes are as follows:

(a) The taxation of LAFHA will continue to occur

wholly within the FBT regime

- (b) LAFH benefits will only be FBT exempt where the employee maintains a home in Australia (subject to transitional rules and fly-in-fly-out or drive-in-drive-out arrangements)
- (c) LAFH benefits will only be FBT exempt for the first 12 months of each work location (subject to transitional rules), unless the employee is on a fly-in-fly-out or drive-in-drive-out arrangement
- (d) LAFH benefits will only be FBT exempt to the extent they are actually incurred by the employee and substantiated
- (e) Substantiation provisions require documentary evidence of accommodation and food and drink expenses. Documentary evidence includes:
 - a. normal LAFHA - a declaration in an approved format
 - b. fly-in-fly-out or drive-in-drive-out arrangement – a different declaration in an approved format
 - c. requirement for the employee to substantiate

their expenses

- (f) There are transitional rules up to 30 June 2014
 - a. Will apply to permanent residents who were LAFH as of 8 May 2012 to access concessional treatment after 1 October even where not maintaining a home in Australia.
 - b. Will not apply to temporary or foreign residents after 1 October 2012, unless they are maintaining a home in Australia
 - c. The transitional rules are subject to there being no material amendments to the employee agreement

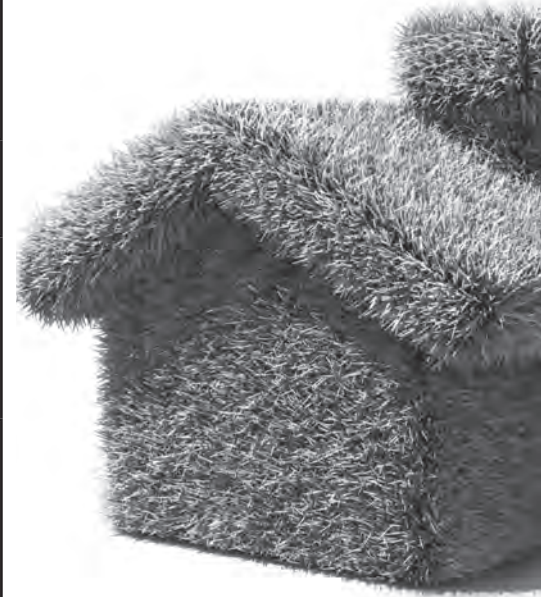
Managing the changes

There are a number of practical challenges that require managing:

A variety of LAFHA scenarios

From 1 October, it is possible that organisations will have a variety of LAFHA scenarios, including the following:

Scenario	After Tax Payroll Code
Fully exempt LAFHA Accommodation is equal to or less than actual rental expense LAFHA Food is equal to or less than the exempt component	LAFH Accom – Exempt LAFH Food – Exempt
Fully Taxable Employee doesn't qualify for the transition or not eligible from 1 October	LAFH Accom – Taxable LAFH Food – Taxable
Partially taxable accommodation Accommodation allowance in excess of actual cost. Therefore, the amount of the allowance up to actual cost is exempt, and the excess is taxable and subject to FBT	LAFH Accom – Exempt LAFH Accom - Taxable
Fully exempt / fully taxable The employee qualifies for the transitional LAFHA arrangements on 1 October 2012 and then on 1 December 2012 has a material change in contract	From 1 Oct to 30 Nov LAFH Accom – Exempt LAFH Food – Exempt From 1 Dec to 31 March LAFH Accom – Taxable LAFH Food – Taxable



The reason for setting out the above 4 scenarios in a table is to illustrate some of the complexities brought about by the law changes and the need to manage these scenarios carefully in the payroll system. It must be noted that other scenarios will exist!

Change over challenges

From our experience, organisations are taking a variety of approaches to managing the change over to the new rules and/ or applying the transitional rules. A common, but generally unintended approach due to time pressures, results in three time periods across the 2013 FBT return year as follows:

1. LAFHA paid from 1 April 2012 to 30 September 2012
2. LAFHA paid from 1 October 2012 to the date a decision is made
3. LAFHA paid from the date a decision is made until 31 March 2013

The reason for the above is due to a number of factors, including:

- A. the short time frame available to employers from the date of the law change to the start date of 1 October. Basically, it may not be physically possible to understand the law

changes, whilst understanding each employee's personal and contract position and put the appropriate change in place, including consulting with the employee (remembering that the law only received Royal Assent in September);

- B. employers required time to develop and agree a policy, and determine the appropriate treatment to apply to each employee; and
- C. some employers were/are constrained by workplace agreements and other business needs

And the above doesn't recognise that some organisations have/had trouble with allocating responsibility for the change.

LAFH Declarations

The ATO have issued 4 approved LAFH declaration formats. It is vital that the correct declaration is completed by each employee.

Importantly, for many employers who stopped paying LAFHA to temporary residents as at 30 September, declarations up until that date are required.

Whilst it may feel like rubbing salt in to the wound, it is preferable to go through that process sooner than later. If an employee leaves and a signed declaration is not available, then come FBT return time, the employer will be faced with additional FBT liabilities.

Conclusion

The transition to the new LAFHA rules is a difficult process and many organisations are still working through the rules and trying to apply these to the employee's personal circumstances, contractual agreements and broader agreements.

Payroll has an increased role to play in categorising LAFHA payments between taxable and exempt, and splitting components between the exempt portion and the excess taxable portion.

Many employers will be faced with significant FBT liabilities due to a range of factors and continued additional workload in the short to medium term. To the extent that payroll can help to manage this burden, this will in turn help to manage risk and deliver accurate data for FBT reporting requirements in May 2013.



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Paul is the sole Director and Founder (in 2009) of FBT, Payroll & Salary Packaging Solutions, Australia's only fully integrated FBT and Salary Packaging outsource firm.

Paul currently writes the Payroll Foundation course materials for the Tax Institute in Australia as a requirement for Tax Practitioner Board registration.

Paul is a Registered Tax Agent, a Chartered Tax Adviser and a member of the ATO's National Tax Liaison Group FBT Sub-committee. Paul is qualified as a Chartered Accountant in both Australia and New Zealand and holds a Certificate of Public Practice in Australia. Paul holds a Bachelor of Business Studies from Massey University in New Zealand and a Master of Taxation from Sydney University.