

Submission to

**Federal Government Review into
Australia's Future Tax System**

Fringe Benefits Tax

on Essential Supervisory Staff at Boarding schools

From the

**Isolated Children's Parents' Association
of New South Wales Inc. (ICPA-NSW)**

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Introduction

The Isolated Children's Parents' Association Inc. (ICPA-NSW) is a voluntary parent organisation that lobbies for access to equal educational opportunities for geographically isolated students. It is part of the larger national organisation, ICPA- AUST, formed in 1971 when rural industry was experiencing a severe downturn. ICPA strives to achieve an appropriate education for all students from Preschool through to Tertiary. It is the only parent organisation that supports both government and non-government systems of education.

ICPA-NSW is a completely voluntary, non-party political organisation which represents the families from rural and isolated areas of NSW.

In pursuit of its objectives, ICPA-NSW has developed policies based on motions carried at Annual Conferences. At the 2008 Conference held in Hillston, and many conferences previous to this, motions calling for the Fringe Benefits Tax on essential supervisory staff at metropolitan boarding schools to be removed.

Many of our rural and isolated children reside in metropolitan boarding schools throughout Australia. At present, the Fringe Benefit tax applies to all boarding schools within a 100km of a city with a population of 130,000. This includes all boarding schools in metropolitan Australia. The FBT severely affects Sydney boarding schools due to their location in an affluent city with high real estate values inflating land values, which impacts on the boarding staff's gross taxable income, as they live on campus.

This is not an incentive to attract suitable staff to these schools and the schools are finding it very difficult to attract and maintain supervisory staff these days, as most choose to live off campus to avoid the Fringe Benefit Tax.

Isolated and rural families need boarding schools so students are able to access an appropriate education on a daily basis.

FRINGE BENEFITS TAX (FBT)

Background.

The Australian Government considers that the FBT plays an important role in maintaining the fairness and integrity of Australia's taxation system. In theory it places employees with access to fringe benefits on a more even footing with employees whose remuneration, consists entirely of salary or wages. The FBT system also facilitates including fringe benefits in an employees effective total income for means testing benefits, such as the family tax benefit.

The FBT applies to virtually all employers and is designed to mean that benefits received by employees in respect of employment are taxed, whether received in cash or otherwise.

The Australian Government believes that where an employer provides an employee with a fringe benefit, such as the provision of accommodation to resident staff of boarding schools, it is appropriate that FBT applies.

Housing Fringe Benefit

Section 25 of the Fringe Benefits Act 1986 defines "a housing fringe benefit arises where an employer grants an employee a "housing right" – a right to occupy or use a unit of accommodation as a usual place of residence"

The Problem.

The FBT represents a significant disincentive for resident staff at metropolitan boarding schools. Residential staff in these schools are choosing to live off campus because of the FBT.

The Consequence of this Tax.

1. **Monetary Cost:** Higher Boarding School fees are a direct result of this tax. The FBT added an average \$500 to each boarding student's fees in 2007. This could be as high as \$700 in 2008. See Appendix 1.
2. **Social Costs:** Traditional house parents and qualified supervisory staff are choosing to live off campus because of this tax. Boarding schools are replacing teaching and supervisory staff with university and GAP students in order to minimise the amount of tax that has to be paid. These students may be well qualified to supervise students in boarding facilities, but in some cases do not have the experience to adequately fulfil their duties. In some cases, supervisory staff are only present for the "sleeping time" and senior students are responsible for running boarding houses. Some boarding schools do not have sick bays at night. Sick students have to return to the boarding house and their only care is by the supervisory staff in the boarding house. Boarding

school staff cannot perform their duties properly, by living off campus. Some schools struggle to find staff to take these positions.

3. **Loss of Boarding Facilities.** Most rural and remote families have little choice other than to educate their children in a metropolitan boarding school. Some schools are downsizing their boarding facilities while others are no longer offering boarding as an option. The FBT may be a factor in the downsizing and closure of these facilities.

FBT Concessions.

- Certain charitable institutions and most non government organisations that are income tax exempt, qualify for an FBT rebate. As a rebatable employer, there is a rebate of 48% of the amount of FBT that would be payable. Individual institutions have to apply to the ATO.
- If boarding schools are classified as non profit bodies, they would be eligible for the rebate.

ICPA appreciates the changes that were introduced in April 2007, in particular:

- A reduction in the rate of FBT from 48.5% to 46.5% in line with the reduction in the top personal income tax rate.
- An increase in the minor fringe benefits exemption threshold from \$100 to \$300.
- An increase in the fringe benefits reporting exclusion threshold from \$1000 to \$2000.
- An increase in the in - house FBT- free threshold from \$500 to \$1000.

Affect of the Grossing Up Process.

The grossing up process aligns the taxation consequences of providing salary and wages income with that of providing fringe benefits to employees. Under the grossing up rules, the FBT is imposed on the amount the employer would have needed to pay as cash to deliver the same effective after-tax remuneration as the fringe benefit. All that the grossing up process does is to enhance equity between taxpayers, by ensuring that fringe benefits effectively bear the same tax as the benefits from goods and services purchased from after tax wage or salary income.

RECOMMENDATION: Under section 58 of the FBT Act 1987, there should be a new exemption classification to read along the following lines: “Where in the case of a secondary boarding school where supervisory and pastoral care staff live on site at the boarding facility the provision of board or accommodation be made exempt, this exemption to be extended to the spouse and children of the staff member”.

The above exemption should be the same as the present live-in carer’s exemption that is available to an employee of a government, religious institution or non-profit body. Secondary boarding schools would need to be added to the list.

Conclusion.

The FBT is having an effect on the cost of education for rural and remote families. The tax is a disincentive for some residential teachers and carers employed by metropolitan boarding schools. Some schools are passing on these costs to the families of students in their fee structures. An ICPA survey suggests that it could be now as high as \$700 per student. There is also a social cost in that supervisory staff are moving off campus and being replaced with staff on lower wages. Anomalies exist in the current Act. For example, a nurse living in hospital grounds, in hospital-owned accommodation is exempt for the first \$30,000 or \$17,000 grossed up.

The only way students in a residential facility can be supervised to ensure their well - being is to have staff live on site.

ICPA recommends that there be a new exemption classification under section 58 of the FBT Act of 1987, to exempt board and accommodation in boarding schools for supervisory and pastoral care staff.

SURVEY OF BOARDING SCHOOLS ON FRINGE BENEFITS TAX

Boarding Schools	Full time Boarders	Boarders 4-6 nights	Boarding Staff Live-In	FBT School all Staff	FBT on accommodation for essential boarding	Type of accommodation that attracts FBT	ATO accepted commercial value of accommodation	Location Classification	Postcode	Boarding Students	Boarding Staff
1	310	40	52	\$490,000.00	\$200,000.00	One Bedroom Flats, Detached Houses	\$520,000.00	Metropolitan	2023		
2	420	125	50	\$606,211.00	\$204,830.00	Bed Sits, One Bed Flats, Detached Houses	\$425,476.00	Metropolitan	2124		
3	696	245	14	\$381,959.00	\$261,220.00	House and Bed Sit	\$65,000.00	Metropolitan	2110		
4	80	50	11	\$3,670.00	\$2,712.00	House	\$7,800.00	Regional	2580		
5	94		10	\$175,000.00	\$60,000.00	One Bedroom and Studio Units	Comparable market value	Metropolitan	2027		
6	330		45	\$265,000.00	\$265,000.00	Bed Sits, One Bed Flats, Detached Houses	\$600,000.00	Metropolitan	2066		
7	98		11	\$386,254.00	\$54,693.00	Bed Sits, Units, Detached House	\$101,296.00	Metropolitan	2023		
8	52	20	4	\$85,522.00	\$1,926.00	One Bedroom Flats		Metropolitan	2060		
9	47	5	6	\$39,818.00	\$22,864.00	House, One Bedroom Flats	\$50,559.00	Metropolitan	2072		
10	92		12	\$430,494.00	\$157,192.00	One & Two Bedroom Flats, Townhouse, Houses	\$117,400.40	Metropolitan	2603		
11	150	55	9	\$104,000.00	\$68,000.00	Two Bedroom Units	\$800.00 per week	Metropolitan	2029		
12	140		9	\$81,070.00	\$18,951.00	Houses, Flats and Bed Sits	\$97,950.00	Metropolitan	2073		
13						Detached Units		Regional	3550	14	3
14						No figures supplied	\$200.00 per week	Metropolitan	3124	50	6
15	355		25	\$138,476.00	\$119,548.00	One & Two Bedroom Units, Detached Houses	\$159,653.96	Regional	2340		
Totals	3974	610	92	\$5,174,640.00	\$1,426,893.00						
Average	219		19.6	\$243,651.00	\$110,632.00						

Boarding Schools 13 and 14 are not counted in the averages

Average cost of FBT per boarding student per year is \$500.00