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Tax Changes Consultation Team
The Treasury
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Dear Tax Changes Consultation Team

SUSTAINABLE FRINGE BENEFITS TAX TREATMENT OF ELECTRIC CARS

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia. We appreciate the opportunity to respond to Treasury's consultation: *Sustainable fringe benefits tax treatment of electric cars*.¹

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.²

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

Introduction

AFIA supports the Government's objective of transitioning the electric car exemption to a more targeted and fiscally sustainable concession while preserving grandfathering arrangements for existing commitments.

¹ <https://consult.treasury.gov.au/c2026-800622>

² [Australian Finance Industry Association \(afia.asn.au\)](https://afia.asn.au).

AFIA does not seek to revisit the Government's broader policy decision or delay the implementation of the reforms. Rather, our recommendations are directed at ensuring the transitional arrangements operate fairly and consistently with the Government's stated intention that existing EV arrangements should not be adversely affected.

However, there remain several circumstances where employees may lose grandfathered treatment despite there being no substantive change to the underlying EV arrangement, or as a consequence of events entirely outside their control. In these situations, employees may be exposed to significant and unexpected increases in vehicle costs, creating financial pressure for households that entered EV arrangements on the reasonable expectation that grandfathered treatment would continue. In some cases, the resulting increase in costs may contribute to financial hardship, affect workforce participation decisions or increase the risk of lease default.

AFIA considers that targeted amendments in the areas outlined below would improve fairness, support continued confidence in EV salary packaging arrangements. Implementation of AFIA's recommendations will ensure the legislation better reflects the underlying policy intent of the transitional provisions.

Targeted Amendments to preserve grandfathering

AFIA considers targeted amendments in the following areas would better align the legislation with the Government's stated policy intent that existing leases should not be adversely impacted by the reforms.

1. Involuntary Employer Restructures

The Explanatory Memorandum currently indicates that a change in employer may constitute a new commitment, including circumstances involving transfers within a corporate group or Machinery of Government changes.

AFIA is concerned that this outcome may unintentionally affect employees whose employment arrangements change due to organisational restructuring, business sales, mergers, acquisitions, transfers of business, or government administrative changes. In these situations, the employee typically has no practical ability to influence the transaction and often continues in the same role, using the same vehicle, under substantially the same lease terms.

The loss of grandfathered treatment in such circumstances would be inconsistent with the policy rationale underpinning the transitional arrangements. The employee has not made a new economic decision to acquire a vehicle, nor has there been any material alteration to the underlying EV arrangement that justified the original grandfathering outcome.

AFIA recommends that Treasury introduce a limited carve-out providing that grandfathered treatment is preserved where:

- the employee continues to use the same vehicle;

- there is no material change to the lease arrangement;
- the change arises from a genuine organisational restructuring, transfer of business, merger, acquisition, or Machinery of Government change.

Such an amendment would maintain the integrity of the regime while ensuring employees are not disadvantaged due to events entirely outside their control.

2. Employee mobility – grandfathering arrangement under certain circumstances

AFIA notes that employee mobility is increasingly common and similar grandfathering considerations to those raised in point 1 arise where an employee voluntarily changes employment but retains the same vehicle and underlying lease on substantially unchanged terms. In these circumstances, the policy intent underpinning the transitional arrangements remains relevant, as neither the vehicle nor the substantive leasing arrangement has changed. Clarifying the treatment of these scenarios would provide greater certainty for employers, employees and financiers and avoid unintended adverse outcomes arising solely from a change in employment.

AFIA recommends Treasury amend the transitional provisions to clarify that grandfathering continues where an employee changes employment but retains the same vehicle and underlying lease on substantially unchanged terms, regardless of whether the change in employment is voluntary or involuntary.

3. Temporary Leave Interruptions, Including Parental Leave

AFIA is concerned that the legislation does not expressly address situations involving temporary interruptions to employment, including parental leave, long service leave, extended illness leave, or similar absences. These forms of leave are a normal and expected feature of workforce participation. In many cases, employees maintain an ongoing employment relationship with their employer and intend to return to the same role at the conclusion of the leave period. During these periods, novated lease arrangements may be temporarily paused and subsequently resumed without any substantive change to the employer, vehicle or underlying lease. Despite this, uncertainty remains as to whether such administrative changes could jeopardise grandfathered treatment.

This issue is particularly significant in relation to parental leave. Employees who temporarily step away from the workforce on approved leave should not be placed in a materially different financial position upon their return where the underlying vehicle and lease arrangements have not substantively changed.

AFIA considers that preserving grandfathered treatment in these circumstances would be consistent with broader government workplace and gender equity objectives and would avoid unintended outcomes for employees who have not made any substantive change to their underlying vehicle arrangement.

Accordingly, AFIA recommends that Treasury clarify, either through legislative amendment or accompanying Explanatory Memorandum, that temporary employment interruptions, including parental leave, long service leave and extended personal leave, do not in themselves result in the termination of grandfathered treatment where the underlying vehicle arrangement is otherwise unchanged.

4. Insurance Write-Offs and Equivalent Replacement Vehicles

AFIA also notes that the exposure draft does not specifically address circumstances where a grandfathered vehicle is destroyed or written off due to an accident or other insurable event.

In these situations, the employee has not voluntarily elected to replace the vehicle. Rather, the replacement occurs because the original asset can no longer be used. Treating the replacement vehicle as a wholly new commitment may produce an outcome that is inconsistent with the purpose of the transitional arrangements.

AFIA considers there is a strong policy basis for limited relief where a replacement vehicle is acquired as a direct consequence of the loss of the original vehicle and the employee seeks only to restore their previous position.

AFICA recommends that to maintain integrity while recognising these circumstances, Treasury could permit grandfathered treatment to continue where:

- the original vehicle has been written off or permanently damaged;
- the replacement vehicle is acquired within a reasonable period;
- the replacement vehicle is broadly equivalent to the original vehicle; and
- there is no material extension or enhancement of the underlying lease arrangement.

Such an approach would ensure that employees are not disadvantaged by circumstances outside their control while preventing the grandfathering provisions from being used to secure concessions for entirely new vehicle arrangements.

5. Anti-avoidance concerns

AFIA is concerned that wording in the Explanatory Memorandum, at paragraphs 1.13 and 1.62, regarding anti-avoidance and the early termination of commitments and immediate entering into of new commitments in order to maintain FBT exemption or 100 per cent statutory percentage reduction, is significantly too broad and creates uncertainty as to the practical implications for employees, employers and leasing companies.

It is not clear whether the Explanatory Memorandum is intended to apply solely to lease extensions, or whether it is also directed at circumstances where an employee transitions from one leased vehicle to another through the termination of an existing lease and entry into a new lease.

Both extensions of car leases and early termination of car leases when a new lease is immediately being entered into are relatively common and we note that the situation is contemplated as a usual occurrence in paragraph 1.50 of the Explanatory Memorandum.

Extensions of leases happen for many various reasons as noted in the preceding sections of this submission. Similarly, early terminations and immediate new leases can happen for many reasons, such as a change in personal circumstances. Based on data obtained from one of AFIA's members around 36 per cent of vehicle leases extend by at least 12 months at end of term.

The current drafting creates practical implementation challenges for leasing providers. AFIA's car leasing members have considered whether additional customer due diligence, monitoring or certification processes may be required if lease extensions, or the early termination of a lease and immediate commencement of a new lease, are potentially captured by the anti-avoidance provisions. However, the uncertainty regarding the intended scope of the provisions has made it difficult to identify compliance measures that would be both effective and operationally feasible.

AFIA recommends that the wording in paragraphs 1.13 and 1.62 of the Explanatory Memorandum, regarding application of the anti-avoidance provisions, be removed. Alternatively, if a reference to the anti-avoidance provisions is deemed necessary, AFIA recommends that additional explanation be provided as to the types of circumstances in which the anti-avoidance provisions might or might not apply, to enable employees, employers and leasing companies to implement workable policies and procedures in this regard.

Closing comments

AFIA supports the overall framework of the exposure draft and the Government's objective of gradually transitioning the electric car concession to a more sustainable footing. We do not seek to contest the broader policy settings underpinning the reform.

However, targeted amendments relating to involuntary employer changes, temporary leave interruptions and insurance write-offs would better align the legislation with the stated policy objective of protecting existing EV arrangements. These circumstances are characterised by the absence of any substantive change to the underlying vehicle arrangement and arise largely from events outside the employee's control.

Without appropriate safeguards, affected employees may face significant and unexpected increases in the cost of maintaining existing EV arrangements, notwithstanding that their vehicle usage and underlying commitments remain substantially unchanged. Such outcomes risk creating avoidable financial hardship,

undermining confidence in EV salary packaging arrangements and discouraging participation in future EV uptake initiatives.

AFIA therefore encourages Treasury to adopt targeted carve-outs in these limited circumstances. Doing so would improve fairness and certainty for employees, employers and salary packaging providers while preserving the integrity and fiscal objectives of the Government's reforms.

Should you wish to discuss our submission or require additional information, please contact me at Emma.Penzo@afia.asn.au.

Yours sincerely



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