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The Treasury
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28 September 2026

Dear Sir/Madam,

Sustainable fringe benefits tax treatment of electric cars – Exposure Draft

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 176,000 members in over 100 countries and regions. We make this submission in response to the Exposure Draft released on 11 September 2026 relating to **Sustainable fringe benefits tax treatment of electric cars – Exposure Draft** (ED).

Executive summary

CPA Australia supports measures that encourage the uptake of low and zero-emission vehicles. However, the ED would benefit from further refinement to ensure the proposed fringe benefits tax treatment operates consistently, equitably and with minimal compliance burden. In particular, the ED should provide clearer transitional rules, align threshold and indexation settings, preserve access to concessions where commercial commitments have been made in good faith, and ensure the 25 per cent discount applies consistently across valuation methods. Additional clarification is also required to prevent reportable fringe benefits amounts and payroll reporting obligations from producing unintended adverse outcomes for employers and employees.

Key comments and recommendations

We make the following key responses:

- Align the proposed $75,000 threshold with the annual indexation methodology for the fuel-efficient luxury car tax threshold to avoid unintended bracket creep and ensure the concession remains effective over time.
- Clarify the grandfathering and transitional rules by defining when a relevant commitment is made, including recognition of early commercial milestones such as vehicle orders or approved salary sacrifice arrangements.
- Introduce a delivery safe harbour period to protect taxpayers from losing access to the full FBT exemption where vehicle delivery or lease settlement is delayed for reasons outside their control.
- Preserve grandfathered exemption status where there is a standard employer novation, minor lease extension or similar administrative change, provided the underlying vehicle remains unchanged.
- Apply the permanent 25 per cent discount consistently under both the statutory formula and operating cost methods to preserve neutrality and avoid disadvantaging employers with high business-use vehicles.
- Ensure reportable fringe benefits amounts for eligible electric vehicles reflect the discounted taxable value rather than an undiscounted notional value, to avoid unintended adverse consequences for employees.
- Introduce consequential amendments to relevant family assistance and higher education legislation to prevent electric vehicle fringe benefit amounts from distorting welfare entitlements or income-contingent debt repayments.
- Provide transitional compliance relief and clear ATO guidance, including updated Single Touch Payroll Phase 2 reporting codes, to assist employers and software providers implementing the new rules.

Please refer to the Appendix for our detailed comments. If you have any queries, contact Jenny Wong, Tax Policy Lead, on jenny.wong@cpaaustralia.com.au or Bill Leung, Tax Technical Advisor, on bill.leung@cpaaustralia.com.au.

Yours sincerely,

Jenny Wong
Tax Policy Lead

Appendix A

This appendix sets out CPA Australia's detailed comments and recommendations on the ED legislation.

Introduction

The ED presents several critical drafting, structural, and technical implementation issues when translated into statutory amendments for the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) and related tax laws. Set out below is an analysis of the primary drafting vulnerabilities, operational frictions, and technical concerns embedded in this ED.

1. Dual threshold mechanics and indexation creep

- *Luxury car tax threshold versus arbitrary $75,000 cap:* Introducing a static or separately defined $75,000 threshold alongside the existing luxury car tax (LCT) threshold for fuel-efficient vehicles creates two competing price caps within Division 2 of the FBTAA.
- *Lack of indexation alignment:* The fuel-efficient LCT threshold indexes annually with CPI. If the $75,000 threshold remains static in the legislation without explicit indexation machinery, rapid price inflation or exchange rate fluctuations will pull middle-tier electric vehicles (EVs) into Phase 2 prematurely, creating an unintended bracket creep effect for zero-emission vehicles before 1 April 2029.

Recommendation 1: Amend the ED to index the $75,000 threshold annually in alignment with the fuel-efficient LCT threshold methodology under Subdivision 960-M of the Income Tax Assessment Act 1997 (ITAA 1997).

2. Grandfathering definition and 'commitment' triggers

- *Event vs. binding agreement:* Drafting grandfathering provisions around 'a pre-existing lease or commitment made prior to 1 April 2029' introduces significant tax uncertainty. The ED relies heavily on the concept of a 'commitment to provide a vehicle' made before 1 April 2029. However, because novated leases involve three separate parties (dealer, employer, and financier), a formal financial commitment is rarely executed at the exact time an order is placed. Instead, in novated lease practices, there is often a gap between:
    1. Ordering a vehicle from a dealer;
    2. Executing a salary sacrifice agreement with an employer; and
    3. Formal financial settlement/delivery by the financier.
- *Litigation and anti-avoidance risks:* If 'commitment' is drafted narrowly (e.g., delivery required before 1 April 2029), severe supply chain delays could strip taxpayers of expected 100% exemptions through no fault of their own. Conversely, if drafted loosely (e.g., expression of intent or initial quote), it creates aggressive tax-planning opportunities for artificial pre-deadline lease agreements.

Recommendation 2: To eliminate the 'commitment' uncertainty, we propose specific refinements to the grandfathering and transitional rules:

1. Define 'commitment' to include the earliest commercial milestone

The ED and explanatory materials (EM) should define a 'commitment made' to include early-stage operational steps. For example, "a commitment to provide an electric car is deemed to have been made prior to 1 April 2029 if, before that date, a binding vehicle order has been placed with a motor vehicle dealer, or a salary sacrifice profile has been approved in writing by the employer, notwithstanding that formal financial settlement or vehicle delivery occurs on or after 1 April 2029."

2. Introduce a 'delivery safe harbour' window

To accommodate unexpected dealer delays, the ED needs to include a grace period that bridges the gap between the commitment and the formal lease start date:

The rule: If a vehicle order or preliminary salary packaging agreement is signed before 1 April 2029, allow a 6 to 12-month safe harbour window (e.g., until 1 October 2029 or 1 April 2030) for the vehicle to be delivered and the financial lease to be settled without losing the 100% FBT exemption.

- *Lease variations and refinancing:* The provisions must explicitly address what happens during lease novations upon changing employers, lease extensions, or refinancing post-31 March 2029. Under current tax rules, re-financing or re-novating often triggers a new contract; without careful drafting, an employee changing jobs post-2029 could unintentionally lose grandfathered 100% exemption status.

Recommendation 3: Include a specific savings provision allowing existing grandfathered 100 per cent exempt leases to retain their exemption following a standard employer novation, minor lease term extension or similar administrative change, provided the underlying vehicle remains unchanged. Clarify when the exemption ceases following a change in commitment, including whether it ends from the date the change takes effect or from the start of the next FBT year.

3. Mathematical mechanics of the permanent 25 per cent discount

Operating cost method exclusion (section 10): By restricting the sustainability concession exclusively to the statutory method, the ED inadvertently penalises high-business-use employers, distorts commercial record-keeping incentives, and creates disproportionate administrative complexity. We urge the Treasury to introduce a parallel mechanism within Section 10 to ensure technological neutrality and equity across both valuation methods.

a.) Distortion of recordkeeping incentives and asymmetry

The core architecture of the FBTAA relies on equity between the statutory formula and operating cost methods, allowing employers to choose the method that best reflects commercial reality. By embedding the 25 per cent discount solely into the statutory formula, the draft creates a severe market distortion:

- *The compliance penalty:* Employers who incur the high administrative burden of maintaining logbooks and tracking actual expenses under section 10 are entirely excluded from the 25 per cent sustainability discount.
- *The valuation trap:* To access the legislated sustainability incentive, an employer is effectively forced to use the statutory formula method. For fleets with high business-use kilometres, this flat-rate proxy may result in a higher taxable value than their actual operating costs, nullifying the financial benefit of the incentive.

b.) Disproportionate impact on high-kilometre and regional drivers

The current draft disproportionately impacts businesses operating in regional areas or those with heavy commercial reliance on passenger EVs (e.g., sales fleets, community nursing, and field services). Under normal operation, a vehicle with an 80 per cent business-use percentage significantly reduces its FBT liability via a logbook. Under the ED, that same business must choose between:

- Forfeiting the 25 per cent sustainability discount entirely to utilise their true 80 per cent business-use percentage under section 10.
- Accepting a rigid, state-imposed 15 per cent statutory fraction that over-taxes their actual private use component just to access the concession.

This creates an inequitable framework where the greenest, most highly utilised electric vehicles receive the least relative tax support.

Recommendation 4: To resolve this discrepancy and restore policy intent, we recommend that the final legislation introduce a corresponding amendment to section 10. Specifically, the taxable value of an eligible electric car calculated under the operating cost method should be subject to a parallel 25 per cent reduction. Section 10(1) should be amended to state that, where a car benefit relates to an eligible electric vehicle during the transition period, the final taxable value, after reducing for the recipient's contribution and the business-use percentage, is multiplied by a factor of 0.75. This ensures that the sustainable treatment applies to the vehicle itself, rather than acting as an arbitrary subsidy for a specific accounting methodology.

4. Reportable fringe benefits amount (RFBA) distortion

- *Gross-up asymmetry:* Section 135P of the FBTAA requires calculating reportable fringe benefits amounts (RFBA) using the *notional* taxable value before exemptions apply.

- *Perverse employee consequences:* Under a 25 per cent discount regime, if RFBA continues to be calculated based on the undiscounted base value or a 100 per cent notional valuation, employees face a severe disconnect: their cash salary sacrifice reduces slightly, but their reported income spike triggers higher family assistance repayments, Higher Education Loan Program (HELP) repayments or Medicare levy surcharges. The legislation needs explicit conforming amendments to the *A New Tax System (Family Assistance) Act 1999* and *Higher Education Support Act 2003* to prevent disguised effective marginal tax spikes.

Recommendation 5: Amend Section 135P/Division 14I of the FBTAA to specify that the calculated RFBA for discounted EVs reflects the actual discounted taxable value rather than an undiscounted baseline.

Recommendation 6: Introduce consequential amendments to the *A New Tax System (Family Assistance) Act 1999* and *Higher Education Support Act 2003* ensuring EV fringe benefit amounts do not distort welfare clawbacks and income-contingent debt repayments.

5. Transition friction and employer compliance overhead

- *FBT year alignment:* The FBT year runs from 1 April to 31 March. While the phase dates (1 April 2027 and 1 April 2029) align neatly with the FBT year boundary, multi-vehicle fleets will require employers to maintain three concurrent FBT tracking categories simultaneously:
    1. Fully exempt grandfathered EVs (less than or equal to $75,000 pre-2029);
    2. Fully exempt active EVs (less than or equal to $75,000 between 2027–2029);
    3. Discounted 25% EVs (greater than $75,000 or post-2029 entries).
- *Software and payroll burden:* Single Touch Payroll Phase 2 reporting requires real-time reporting alignment. Employers and payroll software providers face high software reconfiguration costs to track distinct statutory fractions or concession codes across differing vehicle acquisition tiers.

Recommendation 7: Provide a safe harbour reporting period for the 2027–2028 and 2029–2030 FBT transition years, waiving shortfall penalties where errors arise strictly from fleet category transitions.

Recommendation 8: Issue updated ATO guidance and STP Phase 2 reporting codes at least six months prior to 1 April 2027 to give software vendors adequate time for system implementation.