ON FARM ACCOMMODATION

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Understanding On-Farm Accommodation and Tax Implications

On-farm accommodation is a hot topic for many of our clients. Whether you're housing workers, family members, looking to diversify your income through agritourism, or providing a benefit to secure a workforce, it's important to understand the tax implications to maximise your benefits and stay compliant with tax laws.

When providing such benefits, you need to consider three tax acts that are independent of each other and responsible for administering different taxes: FBT (Fringe Benefits Tax), GST (Goods and Services Tax), and Income Tax. This area of tax law is complex and often results in different FBT, GST, and Income Tax outcomes for the same benefit.

Fringe Benefits Tax (FBT) considerations

Fringe Benefits Tax (FBT) was introduced in 1986 to address the taxation of non-cash remuneration provided to employees, aiming to prevent such benefits from being used to reduce personal income tax obligations.

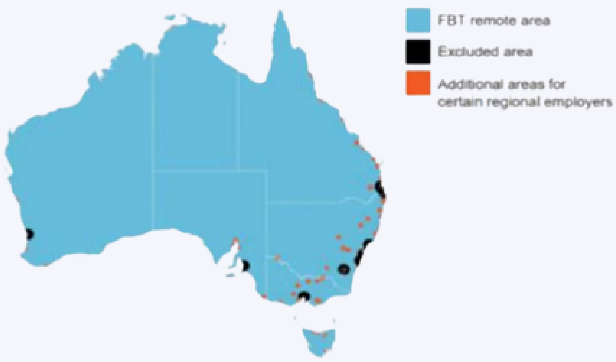
Generally speaking, providing accommodation for employees to live in can be regarded as “remuneration” in kind and is subject to FBT. This also applies to on-farm accommodation. Fortunately, there are certain FBT concessions that may be available subject to meeting specific conditions.

If you're providing on-farm accommodation to employees, here's what you need to know about FBT.

Remote Area Definitions and Concessions

FBT rules change depending on how remote your location is. The geographic boundaries that define ‘remote areas’ for FBT purposes are based on the distance by road from the accommodation location to certain ‘eligible urban areas,’ as defined by the 1981 census. For a location to be considered remote for FBT purposes, it must meet specific distance criteria:

- Inside ATO Zone A or B: At least 40 km from an eligible urban area of 28,000 or more people and at least 100 km from an eligible urban area with a population of 130,000 or more.
- Outside ATO Zone A or B: At least 40 km from an eligible urban area with a population of 14,000 or more and at least 100 km from an eligible urban area with a population of 130,000 or more.
- Special Cases: Certain regional employers, like public hospitals, charities, and police, can count any location 100 km from an urban area with 130,000 or more people as remote and apply a remote housing exemption.



These rules cover about 97% of Australia, meaning most farms qualify for remote area concessions.

These concessions come in two forms:

1. **Full FBT Exemptions:**
   - Housing owned or leased by the employer and provided as the employee's usual residence in a remote area.
   - Meals provided on a working day to primary production employees in a remote area.
2. **Partial Concessions - 50% reduction of FBT value:**
   - Financial assistance with employee-sourced housing, such as rent or mortgage payments (if the employee is leasing a house directly from a third party and you are reimbursing them for it).

According to the FBT Act, if the accommodation is classified as remote and either owned or leased by you, and it serves as the employee's usual residence, you may be exempt from paying FBT on the value of this benefit provided to your employees.

Income Tax Considerations

The income tax treatment of on-farm accommodation can be complex and depends on various factors, including the purpose of the accommodation, its usage, and land ownership. Here are some general guidelines:

1) Initial and Subsequent Costs

Expenses related to constructing, purchasing, and maintaining housing for unrelated employees are generally tax-deductible. These costs could potentially be added to your small business pool depreciation.

If you borrowed money to purchase the house, the interest on that loan would also be deductible.

A different tax treatment applies to a homestead permanently occupied by the owners of the farming business. The initial costs of building, maintaining, or occupying the homestead are generally considered private and not tax-deductible. However, depending on your business structure, you may be able to capitalise these costs to increase the asset's cost base, which could provide a benefit at the time of sale. Additionally, you may be able to claim expenses related to home office use (initial costs and running costs).

For all other situations, it's advisable to apply for a Private Binding Ruling with the ATO to gain clarity on the ability to claim costs related to on-farm accommodations, particularly if these accommodations are for family members who are also employees of the farm business.

Ownership of the land on which the building is situated is a key factor in determining who can claim tax deductions. Generally, the landowners can claim deductions for expenses related to the property. However, specific rules may allow the trading entity to claim these costs on behalf of the owning entity. It's important to consult with your accountant to understand these rules and ensure compliance.

Goods and Services Tax (GST) Implications

GST rules differ significantly from income tax rules and are based on the type of accommodation, which is classified into two groups: residential premises and commercial residential premises. It's important to understand the difference between them, as this will determine whether you can claim GST credits on expenses incurred in building or maintaining those.

- **Residential Premises:** Defined as buildings occupied as a residence or for residential accommodation. This includes houses, apartments, townhouses, and other types of dwellings where people live. Residential premises are distinct from commercial or industrial properties, which are used for business purposes (sheds, home offices, workshops). Costs associated with residential premises are not entitled to claim input tax credits (GST) for maintenance, renovations, or repairs; they are called input-taxed supplies.

- **Commercial Residential Premises:** Includes hotels, motels, caravan parks, camping grounds, and similar setups. If your farm's accommodation operates like a hotel (e.g., camp-style setups for workers with common areas like kitchens, laundry, or dining areas), it might be classified as a "similar setups", and you might be able to claim the GST on associated costs. These premises are designed to temporarily house your employees.

A good example of this type of accommodation would be: a 'camp style' accommodation, which consists of several single-room transportable dongas, with separate communal living, laundry, and kitchen areas provided to seasonal employees and contractors, operated in a way similar to a hotel.

Accommodation for Agritourism (Including Renting to Contractors)

Costs for agritourism services, like farm stays, are generally tax-deductible. Income from these activities must be declared in the income tax return of the landowner, and relevant deductions can be claimed. GST likely doesn't apply to the rent income and expenses if you aren't in the "business of renting," even if your farm is GST-registered.

Examples

Scenario 1: A house or donga equipped with a kitchen, laundry, and bathroom is placed on primary production land owned by the farming entity in a remote location, as defined by the FBT Act. It is occupied by a permanent farm employee who works on the farm.

Consideration	FBT	Income Tax	GST
Initial Purchase Costs	Exempt	Deductible via depreciation	Can't claim
Ongoing Maintenance	Exempt	Deductible	Can't claim
Improvements	Exempt	Deductible via depreciation	Can't claim

Scenario 2: A house or donga equipped with a kitchen, laundry, and bathroom is placed on primary production land owned by the farming entity in a remote location, as defined by the FBT Act. It is occupied by a farm employee who **doesn't** work on the farm.

Consideration	FBT	Income Tax	GST
Initial Purchase Costs	Exempt	Deductible via capital works	Can't claim
Ongoing Maintenance	Exempt	Deductible	Can't claim
Improvements	Exempt	Deductible via capital works	Can't claim

Scenario 3: A 'camp-style' accommodation setup featuring multiple dongas with shared facilities is located on primary production land owned by the farming entity, situated in a remote area as defined by the FBT Act. This accommodation is provided for seasonal employees working on the farm.

Consideration	FBT	Income Tax	GST
Initial Purchase Costs	Exempt	Deductible via depreciation	Claimable
Ongoing Maintenance	Exempt	Deductible	Claimable
Improvements	Exempt	Deductible via depreciation	Claimable

Conclusion

Understanding the tax implications of on-farm accommodation can significantly benefit your business. By navigating FBT, income tax, and GST regulations, you can make informed decisions to optimise your tax position and ensure compliance. For tailored advice, consult your Byfields adviser.