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The Chairperson
Senate Economics Legislation Committee

Dear Chairperson

Re: **Treasury Laws Amendment (Electric Car Discount) Bill 2022. Public Submission.**

Thank you for the opportunity to submit this submission to the Senate Economics Legislation Committee on the 'Treasury Laws Amendment (Electric Car Discount) Bill 2022' (the Bill).¹ The committee's consideration is requested of the enclosed 11 recommendations for changes to the Bill, which are based on the collaborative research report:

Mortimore, A; **Diane Kraal**; K-H Lee; C. Klemm; A. Akimov (2022). *Business Fleets and EVs: Taxation changes to support home charging from the grid, and affordability*. Final Report. Fast track project for RACE for 2030;² (hereafter referred to as the RACE EV and Tax Report).

The abovementioned report was researched by Monash University and Griffith University with input from industry partners that comprised the NSW Government, Victorian Government and the Government of South Australia; AGL Australia Ltd, Australasian Fleet Management Association and the Energy Efficiency Council.

The format of this submission comprises a summary of the 11 recommendations of changes for the Bill to amend Fringe Benefits Tax (FBT). Next are detailed recommendations of the changes,

¹ See [Treasury Laws Amendment \(Electric Car Discount\) Bill 2022 – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au)

² RACE EV and Tax Report < [Business Fleets and EVs: Taxation changes to support home charging from the grid, and affordability by racefor2030 - Issuu](#)>.

RACE for 2030 is a Co-operative Research Centre, established in 2020 with Australian Government funding. <[About Us - RACE for 2030](#)>. The RACE for 2030 facilitates competitive funding for research projects between partner universities and industry.

which are based on the RACE EV and Tax Report, and includes the citing of the Bill's relevant provisions and parts.

Summary: 11 recommended changes

1. Remove all references to 'low emission' vehicles from all the Bill's provisions. Zero emission vehicles should be retained in the Bill.
2. A penalty rate of FBT should apply to petrol, diesel and low emission cars, thus reducing the financial impact of the FBT exemptions from the Bill.
3. The Bill's primary objective should be the reduction of carbon emissions.
4. The Bill's context of amendments should start with the reduction of carbon emissions.
5. Remove all references to hybrid, plug-in hybrid electric vehicles, and low emission vehicles from the Bill's provisions.
6. The words 'any associated benefit in running the car' should be explained by way of an example.
7. The Bill should define an electric car as a vehicle that does not use petrol or diesel for energy and include the example of a hybrid or a plug-in hybrid car.
8. Remove 'plug-in hybrid electric vehicles' from the Bill's detail section.
9. Remove 'plug-in hybrid electric vehicles' from the scope of the new law.
10. The Bill should have a consequential amendment to FBTAA 1986, subsection 8(2)(a)(i).³ That section currently provides an FBT exemption for a panel van or utility truck, designed to carry a load of less than 1 tonne. The words 'zero emissions' should be inserted.
11. The Bill should be revised in the consequential amendments section. It should also provide examples of car expense payment benefits, car property benefits and car residual benefits in relation to the new law.

³ *Fringe Benefits Tax Assessment Act 1986* (Cth).

Detailed Submission

1. General Outline (p.1)

The Bill states: The Bill amends the FBTAA 1986 to exempt from fringe benefits tax cars that are zero or low emissions vehicles held by the provider and used by or made available for private use of employees. Additionally, to be eligible for the exemption the value of the car at the first retail sale must be below the luxury car tax threshold for fuel efficient cars. This is to encourage a greater take up of electric cars by Australian road users to reduce Australia’s carbon emissions from the transport sector, by making electric cars more affordable. The operation of the amendment will be reviewed after three years in light of electric car take up.

The Recommendation: It is imperative to remove all references to ‘low emission’ vehicles from the Bill’s provisions. Zero emission vehicles (defined as battery electric vehicles and hydrogen fuel cell electric vehicles) should be retained in the Bill. Low emission vehicles should not be eligible for any FBT exemptions. There are 14 instances in the Bill of the term ‘low emissions’ vehicles - and they should be removed, viz., sections: 1.1, 1.6, 1.9, 1.12, 1.13, 1.19, 1.20, 1.23, 1.25; Table 1.1; and the ‘Outline’ and ‘Date of effect’ and ‘Overview’ paragraphs. Low emission vehicles include plug-in hybrids and hybrid vehicles – in other words cars that use petrol or diesel for energy.

In support of the above recommendation, it is noted that tax exemptions or discounts for a car that uses petrol or diesel for energy will not effectively lower CO₂ emissions to meet Paris Agreement commitments. Table A shows the emissions of an ICEV and that a ZEV charged with non-renewable generates some CO₂ emissions. Plug-in hybrids and hybrid vehicles (that mostly use petrol or diesel for energy) generate CO₂ emissions close to that of an ICEV.

Table A. Comparison of CO₂ emissions between ICEV and ZEV

| | Internal Combustion Engine Vehicle (ICEV) | | Zero Emission Electric Vehicle (ZEV), charging with non-renewable energy | |
|---|---|---|--|---|
| One Vehicle: 15,000 average kilometres travelled | CO ₂ & fuel /km | Total annual CO ₂ and Fuel costs/vehicle | Energy price/km | Total annual - CO ₂ and Energy price |
| CO ₂ emissions | 177 grams/km | 2.65 tonnes | | 0.08 tonnes |
| Ave fuel consumption Litre/100 km | 10.8L/100km | | \$0.25c per kWh or 16 kWh to travel 100kms. | |
| Total annual fuel cost (\$1.28 per/litre) for 15,000 kms/pa | | \$2,073 | | \$600 |

Source: RACE EV and Tax Report data

The recommended removal of ‘low emission’ vehicles from the Bill, will enable petrol cost savings, CO₂ emission reductions, and grid load reduction by transitioning ICEV fleet vehicles to ZEVs by 2030.

For instance, AGL Australia Ltd estimates that by 2030 there will be 84,539 corporate fleet vehicles. Currently 47% (34,688 fleet vehicles) are home garaged (AfMA and AGL, 2020).⁴ The uptake of ZEVs and associated home charging (34,688 vehicles in 2020), will have the following projected impact: total avoided petrol cost (@\$1.70/litre) savings of \$38,274 (\$000/yr.); compared to total cost charging at home \$18,982 (\$000/yr); means a total cost saving in fuel spent of \$19,291 (\$000/yr). The total load reduction if powered by renewables and charged off-peak is projected at 114.47 MW; avoided emissions per vehicle of 1581 kgCO₂/yr.; and the total CO₂ emissions avoided of 54,845 tCO₂/year for home garaged vehicles.⁵

2. Financial impact (p.1)

The Bill states: This proposal is estimated to have the following financial impact: All figures in this table represent amounts in \$m.

| 2022-23 | 2022-24 | 2022-25 | 2022-26 |
|---------|---------|---------|---------|
| -20 | -40 | -55 | -90 |

The Recommendation: A penalty rate of FBT should apply to a petrol, diesel and low emission cars, as this would reduce the financial impact of the FBT exemptions from the Bill. A table would need to be included in the Bill of emissions data from all models of petrol, diesel and low-emission cars (hybrids and plug-in hybrids) on the Australian market. The current FBT rate of 47% for car fringe benefits should be applied on a scale that aligns with a car’s CO₂ emissions. For example, the higher a car’s CO₂ emissions, then a higher the rate of FBT should apply.

For consistency, the current FBT exemption for a panel van or utility truck, designed to carry a load of less than 1 tonne — there should be a consequential amendment to the FBTAA 1986, subsection 8 (2) (a) (i). It would require the insertion of the words ‘zero emission’, viz.:

‘...a zero emissions panel van or utility truck, designed to carry a load of less than 1 tonne...’

3. Chapter 1

The Bill states at section 1.2, (p.3):

The objective of these amendments is to encourage a greater take up of electric cars by Australian road users by making electric cars more affordable, and to reduce Australia’s carbon emissions from the transport sector. These amendments will be reviewed after three years in light of electric car take up.

⁴ Australasian Fleet Management Association (AfMA), AGL Australia Ltd. (2020). Survey: Electric Vehicles in Business Fleets.

⁵ Mortimore, A., Diane Kraal, et al. 2022. *Business Fleets and EVs: Taxation changes to support home charging from the grid, and affordability. Fast track project.* Sydney: RACE for 2030 CRC, p. 107.

The Recommendation: Section 1.2 should be changed to start with goal of the reduction of carbon emissions (as Australia is a signatory to the Paris Climate Agreement), and the extend it for clarity, viz.,

‘The objective of these amendments is to encourage a greater take up of electric cars by Australian road users to reduce Australia’s carbon emissions from the transport sector by making electric cars more affordable for business, and to consumers via the second-hand car market. The operation of the amendment will be reviewed after three years in light of electric car take up.’

4. Context of amendments

The Bill states at section 1.5 (p.3):

Increasing the affordability of electric cars plays a role in encouraging a greater take up of electric vehicles by Australians. An increase in electric cars will contribute to reducing Australia’s carbon emissions from the transport sector.

The Recommendation: The context, per Section 1.5, should be changed to start with goal of the reduction of carbon emissions, viz.,

‘An increase in electric cars will contribute to reducing Australia’s carbon emissions from the transport sector. An increase in the affordability of electric cars will play a role in encouraging a greater take up of those cars by Australians.’

5.

The Bill states at section 1.6 (p.3):

This amendment will apply to cars that are:

- battery electric vehicles;
- hydrogen fuel cell electric vehicles; and
- plug-in hybrid electric vehicles.

collectively referred to as zero or low emissions vehicles.

The Recommendation: For section 1.6 it is imperative that the last dot point of words be removed, ie.,

‘and plug-in hybrid electric vehicles’; as well as the words in the last sentence, ‘or low’.

6. Detailed explanation of new law

The Bill states at the last sentence in section 1.13 (p.5):

‘...The benefit exempted from FBT for eligible electric cars will include any associated benefit in running the car for the period the car fringe benefit was provided.’

The Recommendation: For section 1.13, the words ‘any associated benefit in running the car’ should be explained by way of an example. For instance, ‘running the car’ comprises outgoings to purchase the energy to power the battery of a zero emissions vehicle.

7.

The Bill states at section 1.19 (p.6):

An electric car will need to meet specific criteria to attract the exemption. The new FBT exemption is in relation to the provision of car benefits, therefore an electric car must satisfy the requirements to be covered by the car fringe benefits rules including the meaning of a car as set out in section 136 of the FBTAA 1986. Additionally, the electric car must:

- use one or more electric motors for propulsion; and
- be fuelled by either an off-vehicle electrical power source, a battery, an electric generator, a hydrogen fuel cell, or a combination of these.

The Recommendation: It is imperative to add one more dot point to section 1.19, viz.,

‘An electric car does not include a vehicle that uses petrol or diesel for energy, such as a hybrid or a plug-in hybrid car’.

8.

The Bill states at section 1.20 (p.7):

The term zero or low emissions vehicle is used to refer to a car that would be exempt from FBT if those cars were used to provide a car fringe benefit. The definition of a zero or low emissions vehicle includes:

- a battery electric vehicle;
- a hydrogen fuel cell electric vehicle; and
- a plug-in hybrid electric vehicle.

The Recommendation: For section 1.20, it is imperative that the words in the last dot point be removed, ie., ‘a plug-in hybrid electric vehicle.’

9.

The Bill states at section 1.21 (p.7):

A car that has an internal combustion engine will not be within the scope unless it is able to be fuelled by a battery that can be recharged by an off-vehicle power source (i.e., plug-in hybrid car).

The Recommendation: For section 1.21, it is imperative that after the word ‘scope’ all the words that follow should be deleted. Section 1.21 should read: ‘A car that has an internal combustion engine will not be within the scope.’

10.

The Bill states at section 1.22 (p.7):

Cars that do not fit within the meaning of a zero or low emission vehicles will not be affected; their treatment for the purpose of FBT will remain the same...’

The Recommendation: Section 1.22 is ambiguous and should be revised to specifically to make a consequential amendment to the FBTAA 1986, subsection 8 (2) (a) (i). That section currently provides an FBT exemption for a panel van or utility truck, designed to carry a load of less than 1 tonne. FBTAA 1986, subsection 8 (2) (a) (i). That subsection should have the words, zero

emission, inserted viz., ‘...a zero emissions panel van or utility truck, designed to carry a load of less than 1 tonne...’

11. Consequential amendments

The Bill states at section 1.25 (p.7):

The Bill also makes a minor consequential amendment to the FBTAA 1986. It amends subsection 53(1) to ensure that particular benefits provided in relation to a car that is a zero or low emissions vehicle are exempt (in the same way that those benefits are exempt in relation to car benefits referred to in subsection 8(2)). Subsection 53(1) deals with car expense payment benefits, car property benefits and car residual benefits.

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The Recommendation: Section 1.25 should be revised, with the deletion of the words/phrase: ‘(in the same way that those benefits are exempt in relation to car benefits referred to in subsection 8(2))’.

As per the above Recommendation 10, a consequential amendment should be made to FBTAA 1986, subsection 8 (2) (a) (i).

Including the above changes, the revised section 1.25 should now read:

‘The Bill also makes a minor consequential amendment to the FBTAA 1986. It amends subsection 53(1) to ensure that particular benefits provided in relation to a car that is a zero emissions vehicle are exempt. Subsection 53(1) deals with car expense payment benefits, car property benefits and car residual benefits.’

The revised section 1.25 should be explained by way of an example. For instance, at subsection 53(1) car expense payment benefits, car property benefits and car residual benefits can include home charging infrastructure for zero emission cars, charging meters and any outgoing to purchase the energy to charge the battery of a zero emissions vehicle.

Final observations and comments

The RACE EV and Tax Report makes seven short-term and three long-term income tax recommendations to change certain provisions in the *Income Tax Assessment Act 1936/1997* (Cth),⁶ to support zero emissions electric vehicle uptake for fleets, home charging from the grid, and affordability.

Income tax changes are outside the scope of the Bill, but the Senate Economics Legislation Committee could note the need for these recommendations in their report, for the near future. Some of the recommended income tax changes are:

- a. Short-term changes to income tax:

The Federal Budget’s *instant-asset-write-off* to apply to ZEVs (not ICEVs).

⁶ Refer to the income tax recommendations list in RACE EV and Tax Report, above note 2, pp. 12-13.

Accelerated depreciation to apply to ZEVs (not ICEVs). Increase GST credit limit for ZEVs.

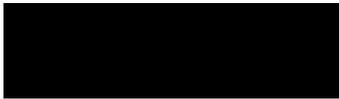
b. Long-term changes to income tax:

Subsidies to employers and/or rebates to employees – for home charging infrastructure.

The income tax recommendations details are in Appendix A.

I would be pleased to further explain the above 11 FBT recommendations (and income tax recommendations if helpful) to the Senate Legislation Committee.

Yours Sincerely



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Appendix A.

(Note; the recommendation numbers are those from the RACE EV and Tax Report.⁷)

Income tax changes for cars and home charging based on current provisions: short-term changes.

6 **Instant asset write
off for BEV
fleet/pool vehicles**

It is recommended that vehicle assets for employer-provided fleet and pool BEVs, the acquisition costs in the sector or class of passenger, light commercial vehicles that include panel vans and utilities, – be eligible for a 100% depreciation concession also known as the ‘instant asset write off’, and made available until an agreed uptake target has been reached.

The instant asset write off (IAWO) would exclude petrol, diesel, hybrid, and plug in hybrids cars from IAWO which would require a minor legislative amendment.

7 **Accelerated
depreciation to
apply to salary
packaged BEVs**

It is recommended for employer-provided BEVs under salary package and salary sacrifice arrangements, that acquisition costs, in the sector or class of passenger, and SUVs — be eligible for accelerated depreciation. It would specifically exclude ICEV light commercial vehicles comprising vans, panel vans and utilities.

The income tax amendment start date should reflect the expected timeframe for when alternative BEV utility vehicles that are ‘fit for purpose’ become available in Australia.

⁷ RACE EV and Tax Report, above note 2, pp. 12-13.

8 **Increase
depreciation cost
limit for fleet BEVs**

It is recommended that the depreciation cost limit for *employer provided* BEVs be equivalent to Luxury Car Tax threshold for fuel efficient vehicles up to \$79,659 (inclusive of GST) for the 2021-22 financial year.

The current depreciation cost limit of \$60,733 (inclusive of GST) for 2021-22 will *only* apply to employer-provided fleet ICEV and HEVs car acquisition in the sector or class of passenger, light commercial vehicles that include panel vans and utilities.

9 **Increase GST credit
limit for fleet BEVs**

It is recommended that the Goods and Services Tax for purchasing an employer-provided BEV be limited to one-eleventh of the increased depreciation cost limit applying to BEVs, for the financial year.

The current 2021-22 depreciation cost limit and associated GST credit – should continue to *only* apply to employer-provided fleet ICEV and HEV acquisitions in the sector or class of passenger, light commercial vehicles that include panel vans and utilities.

10 **Instant asset write
off for fleet BEVs'
home charging
capital costs**

It is recommended that for employer-provided *work fleet* BEVs, that private, capital costs of home charging, including installation of charging connections, be eligible for a 100% depreciation concession also known as the ‘instant asset write off’.

The change would take effect when an agreed uptake target has been reached.

11 **Travel between
home and work for
fleet BEV home
charging**

It is recommended that *travel* between work and home in employer-provided *fleet* BEVs, that require charging at the employee's place of residence, be tax deductible.

12 **Tax deductible for
reimbursements of
home charging pool
BEV**

It is recommended that *energy* to charge an employer-provided *pool* BEVs at the employee's place of residence, be tax deductible.

Income tax reforms for home charging based on review of overseas jurisdictions: longer term.

16 Subsidy to fleet employers for installation of home charging infrastructure

It is recommended for government to encourage the home charging of employer-provided BEVs (*fleet/ tool of trade*), by providing financial support in the form of subsidies to employers for installation of EV charging infrastructure. Subsidies received would be taxable income to the employer.

Modelling would be required to determine subsidy caps, number of subsidies allocated, subsidy dates, and conditions of payment.

17 Rebates to fleet employees for installation of home charging infrastructure

It is recommended for government to encourage the home charging of employer-provided BEVs (*fleet/ tool of trade/salary package*) by providing financial support in the form of tax rebates to fleet employees for the installation of EV charging infrastructure.

Modelling would be required to determine rebate caps, tapering of rebates to target low-to-middle income employees, rebate dates, and conditions of payment.