

AUSTRALIAN TAX ADVISER

2404 : OCTOBER 2023

The IFX Legal Tax Team

IN THIS ISSUE

INFORMATION EXCHANGE CORPORATION

L17, 40 Mount Street,
North Sydney NSW, 2060

E: admin@ifx.com

T: 61 2 9956 7775

W: www.ifx.com.au

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SECTION 1 – PROFESSIONAL DEVELOPMENTS

FIFO WORKERS' TRAVEL COSTS

After the Full Federal Court decision in the [John Holland Group](#) case, we assumed that the issue of employee travel arrangements was all but settled. Readers may recall that in that case, the payment of employees' travel expenses were found not to be taxable fringe benefits where those employees travelled between an airport in their hometown or city to an airport in a place that was a 'Fly in-fly out' work site.

¶4.1 The John Holland Case

The Full Court drew a distinction between employees travelling 'on work' and employees travelling 'for work'. In this regard, the Full Court (at para 45) said:

*'From the time the John Holland employees, both Workforce and Staff, checked in at Perth Airport they were **travelling in the course of their employment, subject to the directions of John Holland and being paid for it.** That situation subsisted until they disembarked the plane at Perth Airport at the end of their rostered-on work time. **At no time during that period were they travelling to work; they were travelling on work** and the cost of doing so under the statutory hypothesis in s 52(1) FBTA would be an allowable deduction to them under [s 81](#) [sic] of the ITAA 1997.'* (Our emphasis and with respect, I assume that his Honour meant s 8-1 of the ITAA1997 rather than s 81).

Later, in the recent case of [Bechtel Australia Pty Ltd v FCT](#), the Federal Court reached the opposite conclusion on broadly similar facts. In particular, the decision addressed the issue of whether employers can utilise the 'otherwise deductible rule' so that no FBT would apply to the cost of the travel. The 'otherwise deductible rule' says that where, had the worker incurred the relevant expenditure themselves, it would have been deductible to that worker, the employer is not liable to FBT on the value of that benefit.

¶4.2 The Bechtel Australia Case

In the Bechtel case, employees worked under a FIFO roster, with transport to the worksite from a major airport being provided (booked and paid) by the employer. In both the Bechtel and the John Holland cases, the work sites were not 'remote area worksites' for FBT purposes, so the FBT exemption that would otherwise have applied was not available.

¶4.3 The Rule

To recap the rule, the general position for travel costs is that:

- when an employee is travelling between work locations, the transport expenses incurred by the employee are usually deductible and the employee is seen to be 'travelling while performing their duties'; and
- travel costs between an employee's home and regular place of work are non-deductible.